# MINISTER'S ADVISORY COUNCIL ON CHILD PROTECTION

## Family Services Act (1973) Review

Submitted to:

The Hon. Gordon Dirks

Minister of Social Services

February, 1984

University Hospital
Saskatoon, Saskatchewan
S7N 0X0

February 27, 1984

Honourable Gordon Dirks
Minister of Social Services
Room 355
Legislative Building
Regina, Saskatchewan
S4S 0B3

Dear Mr. Dirks:

I have the honour to present the final report of the advisory Council on Child Protection, as required in the council's terms of reference.

Respectfully submitted,

Peter Matthews

Peter Matthews, M.B., B.S., F.R.C.P. (C)
Chairman, Minister's Advisory Council on Child Protection

Enc.

MINISTER'S ADVISORY COUNCIL ON

CHILD PROTECTION

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# REPORT OF THE MINISTER'S ADVISORY COUNCIL

# ON CHILD PROTECTION

## INTRODUCTION

The report is divided into significant sections representing the areas addressed by briefs and public comment. Each section contains the theme, cross-references to briefs, discussion matter and Council conclusions.

Within the conclusions, there will be some recommendations which directly address legislation but many more which speak to policies, programs, procedures, administration and the delivery system itself. The diversity of recommendation arises from the broad mandate given to the Council. Each of these areas is identified separately by a code number and in the "List of Recommendations" section.

Council received and considered, but not in depth, documents on child welfare legislation and recommendations from other provinces as well as written submissions from Saskatchewan. These additional papers are separately listed.

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Recommendations coding:

l. = Legislative
p. = Policies or procedures
s. = Applies to social work practice
a. = Administrative guidelines

Lettering recommendations (eg. AAA) refer to studies needed.

The report itself should be read as a whole, with recommendations nested within one another and dependent often on a previous idea or concept. It is therefore important that recommendations not be viewed selectively. Council has thought hard about some of the ideas introduced by brief writers and either directly transposed to the report or slightly modified. It is very clear that we could not please everyone but we hope people will see that we have taken note of their suggestions. For example, it would be impossible to both curtail the discretionary powers of social workers and to permit them to exercise their professional skills in the field.

New concepts introduced include the "family guardian" who we suggest will be available to assist those in need of services to arrive at a negotiated agreement without going to Court, the "substitute family" and the "community visitor" who will be regularly available to the child who cannot be in contact with his natural family for whatever reason. These special people will act like parents in ensuring that a child is receiving proper care especially if in hospital or in an institution far from home.

The mandate of the Family Services Act is to supply services to families needing them. This has led to a too broad interpretation of the actual services supplied. One major concern which needs to be addressed is the use of the Act to ensure that treatment services are provided. While it can be argued that the basic family structure within which a child lives must be the concern of the Department of Social Services, the provision of educational and health or even correctional programs lies with other departments. There is too little proper liaison between the various groups supplying programs.

In particular, health, educational and correctional programs must conform to Social Services standards of care for children or should risk action on behalf of the children. On the other hand, there is no real reason for the Department to undertake treatment or academic educational programs. Health in particular has partially abandoned the treatment programs under mental health and physical handicap to Social Services. The administrative structures of the Department are not such as to permit the provision or evaluation of treatment.

There needs to be reform of interdepartmental administrative structure to deal with overlaps on behalf of the child. A typical example of this type of problem is child abuse where physical, psychiatric, educational and protection services need to be used not only with the child but also with the rest of the family.

AAA COUNCIL RECOMMENDS THE ESTABLISHMENT OF AN INTERDEPARTMENTAL ADMINISTRATIVE STRUCTURE TO DEAL WITH CHILDREN AND FAMILIES REQUIRING SERVICES MANDATED THROUGH TWO OR MORE DEPARTMENTS OF GOVERNMENT.

## CHAPTER 1

## TERMS OF REFERENCE AND PROCESS

"... I am today establishing a Ministerial Advisory Council consisting of experienced community individuals and experts in the area of child and family services. I shall be directing this Council to hold public meetings and receive public opinion, and to review legislative and policy themes... in light of comments which they receive from the public. The Council will then report to me the results of public hearings and the Council's overall review."*

The Minister in his speech of September 14th noted that he had received comment from a number of groups and individuals who had drawn his attention to inadequacies in the Family Services Act, 1973. He then specified six issues which caused him concern. These were:

1. NOT ALL APPREHENSIONS ARE NECESSARY.

2. THERE IS A HIGH (61%) PROPORTION OF CHILDREN OF NATIVE ANCESTRY CURRENTLY IN CARE.

3. THERE IS A LACK OF RESOURCES FOR CHILDREN IN NEED OF PROTECTION TO REMAIN IN THEIR OWN HOMES.

4. WHERE CHILDREN ARE APPREHENDED THERE IS A LACK OF RESOURCES FROM WHICH TO SELECT AN APPROPRIATE PLACEMENT.

5. THERE ARE CONCERNS ABOUT THE QUALITY OF CARE CHILDREN RECEIVE FROM THE DEPARTMENT OF SOCIAL SERVICES.

6. THE DEPARTMENT OF SOCIAL SERVICES WORKERS HAVE TOO MUCH DISCRETIONARY POWER UNDER THE ACT. DEFINITIONS OF A CHILD IN NEED OF PROTECTION ARE TOO UNCLEAR. CHILDREN REMAIN IN CARE WHILE LENGTHY COURT RESOLUTIONS PROCEED. THERE ARE ALSO CONCERNS OVER THE PRESERVATION OF CHILDREN'S AND PARENTS' RIGHTS DURING THIS TIME. FINALLY, THE ROLE OF THE DEPARTMENT AS BOTH "INVESTIGATOR" AND "COUNSELLOR" IN CHILD PROTECTION HAS BEEN AN ISSUE.

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*Minister of Social Services, the Honourable Gordon Dirks, M.L.A. on September 14, 1983 to the Peyakowak Committee, Regina, Saskatchewan.

In addition to his public statements to the Peyakowak Committee, the Minister in his discussions with the Chairman and the Advisory Council requested that public input in broad areas which touch upon the Family Services Act be permitted. He specified documents* which should be addressed and further specified a series of public meetings in Prince Albert, Saskatoon and Regina and such other hearings as might be determined by requests from the public. Finally, he promised the fullest possible co-operation from the Department of Social Services and set a provisional deadline for the finished report as early in the New Year.

## Process

Council's understanding of the terms of reference was that the Minister had given a broad mandate for hearing public concerns and expected a report on these and two discussion papers with advice on suggestions for legislative changes. We were not expected to investigate every problem brought to us, nor were we to initiate research into the operations of the Department of Social Services.

We were supplied with additional background material by the Department of Social Services and, since our report was to be set in a national context, we requested copies of recent Child Welfare reviews** conducted in Alberta and Manitoba as well as information on the California legislation referred to by the Minister in his speech.

The Minister arranged, through the Department of Social Services, to precirculate to a number of organizations in the province the principle concerns he had identified in current legislation and practice. This was most important since these groups contributed heavily to the written briefs.

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* Documents specified were discussion papers from Social Services on "I. Child Protection" and "II. Adoption".

** Reviews were: The Cavanaugh Report from Alberta and Bill 105
The Kimmelman Reports from Manitoba

Organization

Council met for orientation and had three subsequent sessions in which organization was discussed before commencing Public Hearings on October 24, 1983 at Prince Albert. The four weeks between orientation and hearings was used for preliminary reading and media exposure as well as advertising. In the short time available, the publicity was successful, appearing in all provincial newspapers and most radio stations as well as on television near or in the Hearings venues. Print media messages were felt to have been less effective than the commendable efforts of the Council members on radio and television. With its experience, Council feels it would do better another time. We do owe a large debt of gratitude especially to the electronic media.

Local vice chairmen for Prince Albert, Saskatoon and Regina were appointed, secretarial and minuteing services were clarified and strategies for the Hearings were determined. Vice chairmen were responsible for electronic media coverage before each local Hearing and would have been available to chair meetings in the absence of the chairman.

Over 90 written briefs were accepted. In-camera sessions with Council were available on request and formed a small proportion of the general public input but were extensively used by the Department of Social Services workers who wished to discuss the Act without coming into direct conflict with their employer. Despite the public route being open, most workers preferred the in-camera sessions.

As requested by the Minister, most Council members tried to attend all major hearings. The remaining sessions were attended by smaller representative samples of Council. It was agreed that to minimize the effect of having the whole Council sitting in front of the presenters at meetings, a more informal atmosphere would be created by having some of the Council with the chairman. Others sat in the audience where they could talk informally with the public and welcome people to meetings. It was also agreed that members of Council would be free to ask clarifying questions but not to express personal opinions opposite to the presenter.

A transcript of the major hearings were prepared by court reporters and each participant was asked for a copy of his or her presentation for our records. Audience participation was invited to fulfill the requirement for a broader discussion of the issues.

To assist some people who could not be present at the times offered or who were seen by Council as a group with a special point of view, extra sessions were arranged (for details see the list of Council Meetings). These special sessions made input possible from remote, native or incarcerated groups. The hearings and in-camera sessions, together with the written expressions of public opinion are the basis of the public input to our report.

The collected material and the discussion papers were integrated into a preliminary report format at a three day "think tank" in Regina on November 21st through 23rd. The dynamics here called for Council to break into three smaller discussion groups, tackling the issues three at a time over an hour and a half. After each small group discussion period, the whole Council considered the issues addressed and recorded minutes of that discussion for the report.

A second, shorter "think tank" was held in Saskatoon on December 12th and 13th to revise the preliminary draft and prepare for final writing. The report itself was finalized and signed on January 13, 1984.

## Discussion

This description of process has been lengthy because the process by which the Council was selected and mandated was itself criticized in public hearings.

Council has accepted the mandate, recognized the possible limitations and on the areas in question this report is certainly not the final word. Recommendations may assist the Minister or the Department of Social Services to develop clearer information. Council also recognizes that the public hearings and its expert re-evaluation succeeds a three year internal review of the Family Services Act and is parallel to another internal Department of Social Services review of programs and policies. Thus the Minister will have other streams of information with which to make informed decisions.

The Hearings and sessions themselves demonstrated clearly to Council members that the public is eager to be involved in the planning and design of legislation and, as we are told, is the first opportunity the public has had in 40 years to express open opinions on the subject. The limited survey was most worthwhile. At the same time, no one can pretend that the public input was all-encompassing, thoroughly random and representative or anything other than a chance for people

who feel strongly to say how they feel. The council is pleased that so many people did feel strongly. The Minister will have much to ponder.

1. COUNCIL ACCEPTS THAT ITS MANDATE IS VALID WITHIN THE PARAMETERS LAID DOWN BY THE MINISTER. WHERE RESEARCH OR MORE INVESTIGATION IS NEEDED INTO THE RELIABILITY OF STATEMENTS, THE REPORT NOTES THIS.

## CHAPTER II

## PHILOSOPHICAL BASIS

The present Family Services Act does not have a preamble or statement of principles. In order to convey the sense of priorities within the Act, Council, following the advice of briefs, felt that a statement of principles would be required.

One of the problems with the present Act, we were told, is that although it allows a wide variety of options to be provided, it has tended to focus on some at the expense of others. The safety of the child has been so overriding that only removal from home has theoretically secured that safety. Unfortunately, removal has been accompanied by confrontation, overloaded post-apprehension services and sometimes a lesser quality of care than the child might have received at home given adequate resources.

Issues which might be set in a statement of intent would include, on behalf of the children, their needs for stability of environment, normally within the natural family if possible, continuity of education, preservation of established relationships and choices of program offerings for the family. These needs should be met whatever the decision on where the child lives.

The Council heard that all reasonable measures to preserve the integrity of the family and shown to be unsuccessful were taken before a child is apprehended. All reasonable measures include those as set out in the section on early intervention and any others which a family, community or group with the family's integrity in mind, may propose.

There are philosophical issues which are embedded in every part of Council's report and might be expressed in a statement of intent. For example, there are basic rights under the law which must not be compromised by the Act, there are concerns about preservation of heritage, values and cultural background, and there are issues which address the need for the more rapid determination of the cases of younger children.

Elsewhere in the report, a recommendation is made for partial involvement of parents in programming for their children where full involvement would be detrimental. This would apply especially to the older child where some parental involvement is valuable but where irreconcilable differences exist between the child and the rest of the family.

It was suggested that where there is a clear community interest and desire to be involved with services to a family, that community should have the option of intervention in an action at the invitation of the family.

Despite the emphasis on the integrity of the family unit and even the use of the extended family wherever practicable, there will exist cases where apprehension is needed in the interests of the safety or well-being of the child. Nothing should compromise the right of general society to act for and on behalf of those who cannot protect themselves. Emergency programs are required to deal with immediate crises. Ideally these should be chosen by parents and Department of Social Services workers together. Payments and responsibility could be joint. Examples of these emergency programs are the Crisis Nursery, Transition Houses, Alcohol Centres, hospitals, respite care or Family Support Services as proposed by Peyakowak Committee.

Discussion around the briefs presented noted that the preamble should not be so written as to limit other sections of the Act. Also recognized was the underlying socioeconomic, political and cultural reality of some communities and that this Act cannot legislate morality, nor socioeconomic improvements. Yet the plight of certain communities and their families is keenly felt.

Two levels of care based on, for example, a family of native origin compared with a family of non-native origin, was debated and is discussed further in the chapter on Native issues. On the whole, Council felt that there must be one law for all, but that the application of policies or procedures should be directed to address the specific needs of a family as part of a community, religion and culture as well as of Canada.

Some thought was also given to incorporating the United Nations Charter of Children's Rights but while this has been signed by Canada and is a guideline, its specific incorporation was felt to be unnecessary.

The changing roles of men and women as these relate to family structures and systems were discussed. Whether, therefore, to consider the father and mother as a couple or as two separate and sometime independent people was an issue. In particular, Council is aware of the increasing number of single parents and their families. There were mixed feelings about what the family is, reflecting the current uncertainty of society itself, but there was the realization that the children need support, no matter what the adult roles are.

It was thought to be important to spell out in recommendations and in some detail, the principles which ought to be considered when working with families. Thus, the principles of continuity of care of the family and the children are separated, the principle of minimal intervention to secure the desired result and the differences occasioned by the child's age are all spelled out. The overriding principles of family integrity and child safety first are noted, setting each as equally important.

2. THAT THERE BE A STATEMENT OF PRINCIPLES AT THE BEGINNING OF THE ACT TO DEFINE PRIORITIES FOR ACTION, PRINCIPLES TO BE OBSERVED AND AN OVERALL DEFINITION OF WHAT THE ACT HOPES TO ACCOMPLISH. (1)

3. THAT THE PRIMARY ROLE OF THIS ACT IS THE PRESERVATION OR DEVELOPMENT OF STABLE SOCIAL UNITS CALLED FAMILIES WHICH WOULD GENERALLY BE THE NATURAL FAMILIES WITHIN WHICH CHILDREN ARE PROTECTED AND ENCOURAGED TO REACH THEIR FULL POTENTIAL. (1)

4. THAT THE ACT REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO AID FAMILY FUNCTIONING BY THE DEVELOPMENT, IN CONCERT WITH OTHER AGENCIES, OF PERSONAL AND COMMUNITY SERVICES TO MEET THE SOCIAL NEEDS OF FAMILIES. (1)

5. THAT IN THOSE INSTANCES WHERE A FAMILY IS HAVING SUCH PROBLEMS IN FUNCTIONING THAT THE CHILDREN'S SECURITY OR WELL-BEING IS SERIOUSLY COMPROMISED AND WHERE NO ALTERNATIVE POSSIBILITY EXISTS, THE DEPARTMENT OF SOCIAL SERVICES BE EMPOWERED TO TAKE IMMEDIATE ACTION TO ENSURE THE SAFETY OF THE CHILD. (1)

6. THAT WHERE THE DEPARTMENT OF SOCIAL SERVICES TAKES ACTION UNDER #5 ABOVE, ONLY THOSE FAMILIAL RIGHTS NEEDED TO ASSURE THE CHILD'S SAFETY OR WELL-BEING BE COMPROMISED. (1)

7. THAT ANY ACTION UNDER #5 ABOVE, BE SUBJECT TO IMMEDIATE INDEPENDENT REVIEW.

8. THAT THE PRINCIPLE OF MOST RAPID RESOLUTION IS PARTICULARLY IMPORTANT FOR YOUNG CHILDREN. (p)

9. THAT DESPITE TRANSFER OF CHILDREN TO ANOTHER FAMILY, PRESERVATION FOR THOSE CHILDREN OF CONTINUITY IN BROTHER-SISTER RELATIONSHIPS, CULTURE, RELIGION, EDUCATION AND LEISURE ACTIVITIES TO THE MAXIMUM EXTENT POSSIBLE IS IMPORTANT. (p)

10. THAT FOLLOWING TRANSFER TO ANOTHER FAMILY, EVERY EFFORT BE MADE TO RESTRUCTURE THE NATURAL FAMILY AND PERMIT RESOLUTION OF THE ORIGINAL DIFFICULTIES. (p)

11. THAT THE TIME IN THE SUBSTITUTE FAMILY BE STRICTLY LIMITED BEARING IN MIND THE CHILD'S AGE. EITHER THE CHILD BE RETURNED TO ITS NATURAL FAMILY OR PLACED PERMANENTLY WITH, IDEALLY, THE SUBSTITUTE FAMILY OR ANOTHER FAMILY ACCEPTABLE IN GENERAL TERMS TO THE DEPARTMENT AND THE NATURAL FAMILY. (1)

12 THAT EVEN IF PLACED PERMANENTLY, THERE BE PRESERVED FOR THE CHILD AS MUCH KNOWLEDGE OF AND CONTACT WITH THE NATURAL FAMILY AS CONSISTENT WITH THE CHILD'S INTERESTS. (p)

13. THAT FAMILIES SHALL HAVE THE RIGHT TO A JUDICIAL HEARING ON THE PLANS FOR AND PROGRESS OF THEIR CHILDREN AND SHALL HAVE THE RIGHT TO PUT FORWARD ALTERNATIVE PLANS FOR CONSIDERATION. (1)

14. THAT AS CHILDREN REQUIRE CONSISTENCY AND CONTINUITY, THE SOCIAL WORKER WORKING WITH THE FAMILY SHALL BE, AS FAR AS POSSIBLE, THE SAME PERSON FOR THE DURATION OF THE CHILD'S TRANSFER TO ANOTHER FAMILY. (p) (a)

## CHAPTER III

## DEFINITIONS

In the Current Family Services Act there is a series of definitions which are felt generally to be satisfactory but which need some attention to detail. Additionally, briefs suggested new definitions which might be incorporated. These will be dealt with individually:

(a) "child" - since almost all the briefs which addressed this issue were solidly in favor of an upward move in the age at which a child can be viewed as independent and since the new Young Offenders Act has at least 18 as the limit of youth, change is needed. Arguments ran that the 16 and 17 year old is not ready to assume full independence, still needing considerable adult influence. Teenage pregnancy, alcoholism and illicit drug-taking were cited as major problems for this group which could require special programs to help parents deal with the issues.

Children over 16 are not currently offered services under the Family Services Act unless in the care of the Minister. The rationale for this may have been to make 16 years a consistent age of majority. Demonstrably there are many young persons who are having grave difficulty in coping with independent living at age 16. Adolescent pregnancy, substance abuse and suicide statistics are rising and clearly showing a need for continued parental supervision. A desire to achieve consistency with the soon-to-be proclaimed Young Offenders Act was felt as well as a knowledge from briefs and from personal experiences of Council, that 18 was a more sensible age to use as the upper limit of "child". This does not mean that services beyond the age of 18 should not be available. They should be provided under a form of guardianship. We were thinking of the handicapped and those without adequate job skills or social skills.

15. COUNCIL RECOMMENDS THAT THE AGE LIMIT COVERED BY THE FAMILY SERVICES ACT BE INCREASED SO THAT "CHILD MEANS A BOY OR GIRL ACTUALLY OR APPARENTLY UNDER THE AGE OF 18 YEARS. (1)

16. THAT CONSIDERATION BE GIVEN TO ESTABLISHING SPECIAL YOUNG PERSONS' PROGRAMS TO DEAL WITH THE EMANICIPATED CHILD. (p)

17. THAT SOME PRIORITY BE ALLOCATED TO THE 14 - 18 AGE RANGE AS THE PROBLEMS CURRENTLY BEING SEEN WILL OTHERWISE RESULT IN CONSIDERABLE ADULT SOCIAL DISORIENTATION AND NEW GENERATIONS OF CHILD NEGLECT AND ABUSE. (a)

18. THAT THOSE PERSONS WHO ARE IN NEED OF SERVICES BE SERVED. A FORM OF GUARDIANSHIP SHOULD EXIST FOR THOSE WHO STILL NEED SERVICES AND ARE BEYOND THE AGE OF 18 YEARS. (1)

(b) "foster home" - there was some discussion by presenters about the word "foster" in this context but no resolution of the problem. A foster home was noted to need the requirement of meeting accepted standards and to be properly recompensed for the care given. Any alternative family should really be checked and monitored in some way to provide satisfactory care for children. Other functions were also seen as feasible for foster parents; for example, as objective witnesses in Court, as helpers for the natural parents in regaining their children and as aides in the natural parents acquiring parenting skills.

The definition of "foster home" was seen as offering a term which is well known but which has collected some negative feelings as well as very positive ones. Council was impressed with the dedication, acceptance and loving shown by the majority of foster homes. Many examples of good foster care were displayed to us and there were testimonials to good care given. Problems arose because of lack of selection and placement standards or monitoring, lack of training and inadequate evaluation criteria.

The Council had also been requested to look at the remuneration of foster homes as well as the fact that they need some relief from the continuous care of very difficult children. This was especially so in the case of handicapped children and children with special needs. These were placed with the expectation that treatment needs would be met.

We agreed that there does seem to be a need for foster homes to be properly compensated for the job they do as well as a need for the foster homes to be subject to standards. On the matter of salaries for foster parents, we did not feel we had all the evidence and have chosen to make more general recommendations. Further study and consideration is needed in this difficult issue. We felt that standards could and should be developed by the foster parents themselves, probably through their Association.

At this point, we should note our feelings that the Minister cannot really be a parent for a child because of the remoteness of his position from the real needs of children. He can only be responsible for ensuring that the children receive the best care possible under the circumstances. This he is required to do. He must therefore delegate his authority to another. This other would in most cases be the natural family or the alternative family.

We recommend:

19. THAT A "FOSTER HOME" MEANS A HOME WHICH MEETS STANDARDS OF CARE ACCEPTABLE TO THE DIRECTOR FOR A CHILD IN NEED OF A SUBSTITUTE FAMILY. (1)

20. THAT THE DEPARTMENT OF SOCIAL SERVICES, USING THE EQUIVALENT OF SECTION 5(2) OF THE CURRENT FAMILY SERVICES ACT, ASSIST THE FOSTER PARENTS ASSOCIATION TO DEVELOP ACCEPTABLE STANDARDS FOR THE SELECTION AND CONTINUING APPROVAL OF FOSTER HOMES AND FOSTER PARENTS. (p)

21. THAT FOSTER PARENTS BE RECOMPENSED FOR ALL REASONABLE OUT-OF-POCKET EXPENSES INCURRED IN THE CARE OF A CHILD IN THE CARE OF THE MINISTER USING, FOR EXAMPLE, A COMPENSATION SCHEDULE SIMILAR TO THAT DEVELOPED BY THE DEPARTMENT OF CONSUMER AFFAIRS. (a)

22. THAT AT THE TIME OF PLACEMENT OF A CHILD, A CLEAR AGREEMENT BETWEEN THE NATURAL PARENTS, THE MINISTER AND THE FOSTER PARENTS BE DEVELOPED. THIS AGREEMENT TO SPECIFY IN WHAT RESPECTS THE FOSTER PARENTS MAY ACT AS PARENTS AND IN WHICH AREAS THE NATURAL PARENTS ARE RESTRICTED. (a)

#22 addresses the problem of foster parents needing to sign for needed medical attention, receive and discuss with teachers school reports, act as guardian when taking the children on a holiday out of the country and address the concerns of the child before a Court hearing. It also begins to address questions of access during and after the child's placement in the foster home.

23. THAT FOSTER PARENTS THROUGH AN EVALUATION DEVELOPED THROUGH AN INDEPENDENT ASSOCIATION AND APPROVED BY THE DIRECTOR BE AUTHORIZED TO ACT AS PARENT AIDES OR PARENT MODELS TO ASSIST NATURAL PARENTS WITH THE SKILLS OF PARENTS. (p) (a)

(c) "parent" - a number of briefs were received on the issue of who constitutes a "parent" and most exception was taken to Section 2 (m.ii) of the Family Services Act. This gives the mother exclusive right to parentage of a child who was born to her while she was unmarried and where she did not subsequently marry and thus give the child a father.

Exception was taken on two grounds: Firstly, the designation of a child as either legitimate or illegitimate. It was felt that the point was the marital status of the parents, not the child's legitimacy. The child should not be labelled or differentiated from any other by reason of its parents' behavior.

The second reasons for dissent came from those fathers who found themselves, although acknowledged as father, yet unable to have any say in the future of the child because they were not a legal "parent" under this Act.

An argument against the proposal to delete subsections 2(mii) and 2(miv) is the problem of trying to find the natural father. He may have disappeared. In the meantime, the child remains in some form of alternative care simply because of a legal problem, important as it may be from the parental rights viewpoint.

> A compromise might be to accept as parent any father who is the acknowledged biological father or, through reasonably lengthy care and control of the child is acknowledged as a de facto parent. This compromise might involve two fathers or more but would avoid the involvement of the father in a casual, uncaring encounter which produces a child.

The term "parent" was discussed by Council and it was agreed to recommend the replacement of "illegitimate" and all its implications from the Act, referring instead to the marital status of the parents. Parents were thought to be the biological parents if either acknowledged or otherwise proved, and the de facto parents such as common-law fathers or mothers and also the non-custodial parent in a divorce or separation situation where there is actual contact and a demonstrated interest in the child. We also felt that after placement, the foster parents would acquire parental rights and responsibilities as noted above. The Alberta legislation - Bill 105 - has looked at this matter as guardianship rather than substitute parenting. There are potential problems of confusion of terms as we are suggesting a family guardian as mediator. A guardian may be assumed to have less than full parental authority over a child.

24. THAT THE TERM "PARENT" BE REDEFINED TO INCLUDE THE ACKNOWLEDGED OR PROVEN BIOLOGICAL PARENTS WITH A SIGNIFICANT RELATIONSHIP WITH THE CHILD AND ALSO THE DE FACTO PARENTS SUCH AS A COMMON-LAW HUSBAND OR WIFE OF A BIOLOGICAL PARENT. (1)

25. ALL PARENTS MUST BE NOTIFIED OF A HEARING UNDER THE ACT. (1)

26. THAT IF CURRENT LEGISLATION IS RETAINED, THEN DELETE SECTIONS 2(m) (ii) AND 2(m) (iv) AND 52(1) (c) AND (d). IF NEW LEGISLATION IS WRITTEN, PARENTS BE DEFINED WITHOUT REFERENCE TO THE IDEAS EXPRESSED IN THOSE SECTIONS. (1)

27. ADD SECTIONS TO PROTECT THE PARENTAL RIGHTS OF THE ACKNOWLEDGED BIOLOGICAL FATHER AND ANY OTHER DE FACTO PARENT IN ANY FORM OF SUBSTITUTE FAMILY. (1)

(d) "social worker" - this term should replace the older "officer of the Department". Briefs suggest that a proper definition of social worker would embrace a person who was employed by the Department in that capacity and who accepts and practices within the Code of Ethics of the Canadian Association of Social Workers. This difference would place the primary loyalty of the social worker towards the client and not towards the Department. In cases of conflict, the client's interests would be served first. Those arguing for this change were professional social workers but the force of the argument was that currently both law and medicine practice under a Code of Ethics and there is no real conflict of interest between these professionals and their employers.

To adopt a Code of Ethics, standards of training and practice would immensely enhance the prestige of the social worker and improve an image which does become tarnished at times.

The professional groups of social workers from within and outside the Department of Social Services were jealous of their professional skills and designation. They were vocal in their feelings that they were trained, competent people, able to make informed judgements and present these to parents and children as well as to the Courts. Council felt that the social workers of the Department should be properly addressed and the establishment of training standards, continuing education, and a Code of Ethics would be essential. However, we are aware that improvement in skills and, in particular, a much greater emphasis on supportive and early intervention activity will not occur easily nor very rapidly. Massive retraining is needed.

There have been problems with particular cases but Council thought that most of these were attributable to factors other than a lack of professional integrity on the part of social workers. If a social worker under the Family Services Act is defined clearly, then the use of other "officers" in child protection matters would automatically cease.

We considered the idea that social workers should be members of the Saskatchewan Association of Social Workers but felt that the organization would be more effective if its member-

ship were voluntary and outside the requirements for practice as a social worker with the Department. It might be, however, that a form of licensing could be developed for social workers and if so, then the Department social workers should be licensed.

Our discussions concerning social workers did not stop at definitions under the Act but continued as we looked at problems in continuation of training, standards of practice and procedures adopted. We looked at the administrative ladder and noted the drain of experience into the central offices and the tendency to use relatively untried social workers in quite difficult circumstances.

We would like to see a reduction in the "burnout" phenomenon and thought that opportunities to be really useful, limited caseloads and good community support were highly significant positive factors. We also thought that perhaps a separate administrative ladder should exist for those who demonstrated competence in administration. These matters will be included in recommendations here rather than later in the report.

28. THAT THE TERM "SOCIAL WORKER" BE USED INSTEAD OF "OFFICER" WHEREEVER THAT TERM APPLIES IN THE ACT. (l)

29. THAT A "SOCIAL WORKER" IS A PROFESSIONALLY TRAINED PERSON, QUALIFYING FROM AN ACCREDITED SCHOOL OF SOCIAL WORK AND PRACTICING UNDER THE CODE OF ETHICS OF THE CANADIAN ASSOCIATION OF SOCIAL WORKERS AND IN THE EMPLOY OF THE DEPARTMENT OF SOCIAL SERVICES. (l)

30. THAT STANDARDS OF TRAINING AND PRACTICE FOR SOCIAL WORKERS BE CONTINUALLY IMPROVED WITHIN THE DEPARTMENT SUCH THAT THE LATEST RESEARCH AND PRACTICAL KNOWLEDGE IS AVAILABLE TO THE PEOPLE OF SASKATCHEWAN. (s)

31. THAT A PROMOTION PROGRAM IN TERMS OF SENIORITY, SKILLS AND WILLINGNESS TO WORK IN MORE CHALLENGING SITUATIONS BE DEVELOPED. (a)

Social workers in discussing "caseloads" noted that sometimes a case is left in the load even though very little is happening between the worker and client. These "sleeping" cases should not be counted as part of the active caseload. It is also possible for other agencies and workers in the community to pursue Department objectives with clients, freeing the

Department worker for more active intervention. This process of ensuring that only active cases are carried is important and requires continuous audit. The process is called "case-losing".

32. THAT CASELOAD STANDARDS BE DEVELOPED AND ADHERED TO SUCH THAT SOCIAL WORKERS ARE NOT OVERBURDENED AND, MOST IMPORTANTLY, THAT CASE-LOSING BE STUDIED AND IMPLEMENTED TO ENSURE THAT ONLY THOSE CASES ACTUALLY NEEDING DEPARTMENT OF SOCIAL SERVICES RESOURCES AND SKILLS RECEIVE THEM. (a)

33. THAT INCREASED RESPONSIBILITY AND ACCOUNTABILITY BE A PART OF THE SOCIAL WORKERS' ROLES. (a)

34. THAT CERTAIN CASELOADS BE DESIGNATED FOR SOCIAL WORKERS AND CONSIDERED AS MORE DEMANDING AND THEREFORE TO BE REWARDED MORE IN TERMS EITHER OF INCREASED SALARY OR SENIORITY. WE DO NOT RECOMMEND THE PLACEMENT OF JUNIOR STAFF IN UNSUPPORTED SITUATIONS. (a)

(e) The following definition has been attempted by Council to try to encompass the ideas put forward in briefs about those others who could or should have a significant input when family intervention is considered: "community" - a limited group of persons and families who have undertaken some form of joint social responsibility, where certain of the individual's or family's problems become the responsibility of all to solve. The community may be geographic, cultural, religious, political or simply altruistic. The undertaking confers on the larger group a right to be involved in the decision making process. In the larger sense, this community can become an extended family for those committed to it.

Briefs stressed the importance of the larger social group within which a family is embedded. It seemed to be the opinion of the brief writers that this larger group had an interest in the successful outcome of a problem. Examples of community concern were addressed by the Jehovah's Witnesses, the Native communities, church briefs and were a constant reference by the social workers we talked to. "The community should be involved", was a constant repetition.

As defined in the foregoing, a community would have an interest and should be a possible party to an action. How to involve them was another matter. Council considered a community panel to review problems with the family and the Department of Social Services. We looked at encouragement of programs generated from the local groups, at representation within the Department and in the Justice system. In fact, it was difficult to avoid consideration of the community in all areas of resolution of the problems. We suspect that a new Act will have to make reference to the word and are, therefore, including it in definitions.

35. THAT THE TERM "COMMUNITY" BE DEFINED AS 'A LIMITED GROUP OF PERSONS WHO HAVE UNDERTAKEN SOME FORM OF JOINT SOCIAL RESPONSIBILITY.' (1)

36. THAT THE COMMUNITY OF WHICH A FAMILY IN NEED OF SERVICES IS A PART SHALL BE ENTITLED TO BE HEARD IN ANY PROCEEDING CONCERNING THAT FAMILY IF THE FAMILY CONSENTS. (1)

37. THAT THERE SHALL BE AN INITIAL EXPECTATION OF A COMMUNITY OF WHICH A FAMILY IN NEED OF SERVICES IS A PART TO ASSIST THE FAMILY IN DEVELOPING ALTERNATIVE PLANS FOR THE FUTURE OF THE FAMILY. (p)

(f) "extended family" - those members of the biological family who do not live together in the intimacy of a common dwelling.

Council agreed that although an unusual definition, this one covered the cases described by briefs. The extended family can encompass relatives by marriage or by common-law association and will cover all in direct blood relationship with the children of the family.

The extended family was a frequently mentioned concept, occurring in the Minister's own speech and in many reactions to that. We were both encouraged and cautioned about use of the extended family as an alternative to foster placement. The encouragement was

because the extended family was seen as a natural resource which was well accepted by parents. The caution related to the fact that intimacy could make the continuing care of a child less certain. Extended family members were more likely to succumb to promises from parents and might well be themselves part of a cyclical pattern of disordered family functioning.

In considering the "community", Council also looked at the "extended family" and accepted the overall definition above. The warnings and possible positive effects of the extended family are well understood but no legislation would cover all the possibilities.

Council accepted the idea that the extended family should be given first consideration as a resource for the child but realizes that in many instances there would be dangers in placing the child there. If this is so, the explanation and rationale for placement elsewhere should be properly documented and, if necessary, taken before a judge for assessment. No allegation of impropriety should lie on an extended family which is rejected as an alternative to other plans for care.

The difficulties of a rejection at a particular time leading to the feeling that a party has been accused of something will be addressed later in the document.

38. THAT WHEN ALTERNATIVE LIVING PLANS FOR A CHILD ARE BEING CONSIDERED, THE EXTENDED FAMILY, ESPECIALLY IN THE NATIVE COMMUNITY, BE GIVEN FIRST CONSIDERATION. (p)

39. THAT IN CONSIDERING THE EXTENDED FAMILY, SOCIAL WORKERS NOTE THE POSSIBILITY OF CYCLICAL INTERGENERATIONAL FAMILY PROBLEMS WHICH MAY BE AWAKENED AS A RESULT OF PLACEMENT. (a)

(g) "family guardian" - Council discussed the possibility of this being a person paid by the Office of the Official Guardian to mediate between families and the Department of Social Services social workers, selecting the plan which offers the best opportunity for child security and continuity as well as for family reunification.

> After an interesting discussion focussing on representation, confidentiality, costs and acceptability, the Council arrived at the concept of one independent mediator between the Department and the family. This mediator would be the first line of a problem solving and would prepare with the parties a plan of action. Independence would be guaranteed by an appointment through the Official Guardian's office and the term "family guardian" was born.

Three possible alternatives to a Court Hearing were considered by the submitters of briefs and were elaborated upon by Council. A restatement of the principles behind the Planning Committee previously used by the Department suggested a community planning 'board' consisting of a group of volunteer community "elders" or specialists was one option. A tribunal with a majority from the community of origin and a mediation board were the others.

The concept "family guardian" is a product of the Council. It was not suggested by briefs. The closest a brief came was in suggesting a mediator between the Department of Social Services, can be seen as independent and makes use of a governmental structure which has limited jurisdiction currently. There would be a number of full-time positions to be created - probably about 15-20 for the province to deal with the current numbers of apprehensions and difficulties over planning.

However, if early intervention services were to be actively encouraged, the use of the family guardian might be minimal. The family guardian would be used by parents and the Department of Social Services to resolve differences in plans; further, the family guardian could act as an independent informational resource. The family guardian could not direct a solution but could explore the alternatives with the parties and help them reach an agreed upon plan.

There exists the potential problem of social worker coercion of a weak and powerless client. To avoid this, Council suggests that the family guardian have the power to "spot check" by talking to parents and checking the case files. Further, the family guardian could assist by suggesting people who might be able to help parents conduct their case. Adequate publicity would be needed to ensure that this function of the guardian was well understood by the public.

In the event they still could not agree, then either the parents or the Department could appeal to the Courts for a Hearing.

40. THAT A FAMILY GUARDIAN BE CREATED THROUGH THE OFFICIAL GUARDIAN. THE FAMILY GUARDIAN WOULD MEDIATE BETWEEN THE PARENTS AND THE SOCIAL WORKER TO ASSIST IN FINDING AN ACCEPTABLE PLAN TO BOTH PARTIES. SUCH A FAMILY GUARDIAN MUST POSSESS A GOOD DEAL OF KNOWLEDGE OF RESOURCES AND BE ABLE TO INTERPRET THESE TO THE PARTIES. THE GUARDIAN IS NOT AN ADVOCATE. (1) (a)

41. THAT PARENTS WOULD HAVE THE OPTION TO APPLY TO THE COURTS RATHER THAN DEAL WITH THE FAMILY GUARDIAN. (1)

42. THAT THE FAMILY GUARDIAN COULD NOT COMPEL EITHER PARENTS OR DEPARTMENT OF SOCIAL SERVICES TO ADOPT A PARTICULAR SOLUTION. THIS COULD ONLY BE DONE IN COURT. (a)

43. THAT DISCUSSIONS WITH THE FAMILY GUARDIAN SHOULD NOT BE ADMISSABLE AS EVIDENCE IN COURT, BUT THE DETERMINATION OF THE FAMILY SESSION SHOULD. (1)

(h) "child in need of protection" - many briefs addressed the uncertainty around what constitutes a child in need of protection. They were particularly concerned about Section 15(e) and about the use of words like "unfit" and "improper" which call for value judgements by the social worker. Instead, there were requests for more specific words like the child's life being threatened. Section 15(e) was the object of concern by the lawyer representing the Jehovah's Witnesses, a group having especial religious convictions about blood transfusions. The same section was also mentioned in a brief by the Saskatchewan Medical Association and by Dr. Kasian in a letter, both of whom spoke of other reasons for the use of Section 15(e). Evidently the section is not used exclusively to persecute the members of a religious group.

> One way out of the dilemma would be to define both a child in need of protection services and a child in need of apprehension.

Council, in considering those definitions which were called in question, felt that too much specificity in definition would lead to anomalous cases in which a ruling by a judge might be impossible. The final interpretation should be left to a judge to permit the variations required. If, for example, 15(e) were to be removed, a child whose parents objected to proper medical treatment might be damaged. Subsequent prosecution of the parent would be too late to save that child's life or health. However, the present Act allows any medical practitioner to state that there is an unmet need for medical treatment and the judge MUST rule in the physician's favour.

Council felt that further information was needed before deletion of Section 15(e) could be recommended. A second opinion by a physician retained by the parents would allow the judge to consider the issues more carefully.

In discussion of the "child in need of protection", Council took note of the proposed Alberta legislation, 1983 - Bill 105. That Bill speaks of "a child in need of protective services", a more accurate description, we feel. The Bill continues to stress, as our Council also wished to do, the child's needs rather than the parent's shortcomings or failures. These problems are often no one's fault, but an unfortunate combination of circumstances.

It was decided that the words "unfit, proper or improper" allowed too much value judgement to creep into the assessment. Therefore, they should be dropped and the problems clearly specified in more objective, behavioral terms. At this point, the discussion paper prepared by the Department of Social Services is cautious because it notes a dichotomy between specifying all cases and being too judgemental. The Ontario and British Columbia legislation have different approaches with the former preferred because of specificity.

Looking at the Ontario Act suggested criteria which are:

- a child has suffered or there is a substantial risk that the child will suffer a serious physical harm. Such harm may be inflicted deliberately by the parents or may be caused by the failure of the parents to supervise or protect the child adequately.

- a child has been sexually abused by his parents or any other person, and the parents, knowing of the possibility of abuse, failed to protect the child.

- the child is in need of medical treatment to cure, alleviate or prevent the child suffering serious physical harm and the parents are unwilling to provide or to consent to necessary medical treatment.

- the child is suffering serious emotional damage evidenced by serious anxiety, depression, withdrawal or aggressive behavior towards self or others and his parents are unwilling to provide or to consent to necessary services.

- the child has been abandoned.

These subsections appear to cover most of the problems seen by Department social workers but Council was urged to include in the definitions a clause on educational needs of children. It might read:

- the child is lacking educational opportunity and the parents do not provide support and encouragement to the child in seeking improvement.

However, it also seems to us that to define educational neglect into the Family Services Act would be to take away from the schools a function which is theirs. The Department of Social Services need only be brought in when educational services have been provided to the family, and either are rejected or foundered at a point where there are irreconciliable differences between parents and children over what to do about education.

There do, in fact, seem to be medical reasons other than insistence on a blood transfusion for which the subsection defining a need for medical attention exists. Council would advise a section on medical attention ensuring that a contrary viewpoint be heard. Points about having a child taken into the care of the Minister will be considered in the section on apprehension.

In considering the older child, difficulties arise for some families in the "teen" years. The Council would not wish to recommend anything which would diminish the right or duty of parents to guide their children through the transition period

to adulthood. The Department of Social Services should not become a way for children to avoid meeting the expectations of parents nor for parents to avoid the compromises needed to accommodate another adult in the household.

Services should be available to assist families in resolving their differences. The Department of Social Services could either advise on where the services are available, or if need be, provide some of these services. Therefore, a section of the Act should define under what circumstances an older child or "youth" or the family of such a "youth" may have access to these services.

Concerns which need to be addressed are: runaway teenagers, drug and alcohol abuse and serious depression. Running away from a situation is a significant statement of distress by a child. It requires careful evaluation and the child will need protection while the investigation goes on. It is not enough simply to return the child to the care of its guardians without a thorough understanding of the circumstances. Authoritarian abuses are a common finding in the homes of runaways. "Voting with one's feet" has always been a method of protest. Therefore, these youth problems should be grounds for the provision of protective services.

44. THAT THE FAMILY SERVICES ACT IN DEFINING A "CHILD IN NEED OF PROTECTION" OR "PROTECTIVE SERVICES", FOLLOW THE LEAD OF THE ONTARIO LEGISLATION AND ATTEMPT specific definitions. (1)

45. THAT A CHILD IN NEED OF PROTECTIVE CARE BE SEPARATELY DEFINED. (1)

46. THAT INCLUDED AMONG THE DEFINITIONS FOR THE PROVISION OF PROTECTIVE SERVICES BE THAT IN ADDITION TO THE GENERALLY ACCEPTED REASONS, THE FOLLOWING BE ADDED:

    A. DRUG AND ALCOHOL PROBLEMS
    B. ADOLESCENT RUNNING FROM HOME
    C. PREGNANCY OR VENERAL DISEASE IN A CHILD
    D. CONDUCT BY THE CHILD WHICH IS PREJUDICAL TO ITS OWN WELL-BEING
    E. WHERE PARENTS ALONE CANNOT HELP THEIR CHILDREN DEAL WITH THE PROBLEMS
    F. FAMILIES IN HIGH STRESS SITUTATIONS PERHAPS DUE TO ILLNESS OR TO A CHILD'S NEEDS. (1)

47. THAT PROTECTIVE SERVICES DO NOT IMPLY THAT SOCIAL WORKERS ARE EXPERT IN TREATMENT BUT THAT WHERE EITHER EDUCATIONAL OR HEALTH NEEDS ARE NOT BEING MET, CLOSE INTER-DEPARTMENTAL LIAISON WOULD TAKE PLACE. (a)

48. THAT IF THE ONTARIO SUGGESTIONS ARE ADOPTED MORE OR LESS INTACT, A DEFINITION OF SEXUAL ABUSE WOULD BE REQUIRED AND FOR THESE PURPOSES, THE ALBERTA DEFINITION: "A CHILD IS SEXUALLY ABUSED IF EXPOSED OR SUBJECTED TO SEXUAL CONTACT, ACTIVITY OR BEHAVIOR THAT IS INAPPROPRIATE TO THE CHILD'S AGE, EXPERIENCE OR EMOTIONAL OR PHYSICAL DEVELOPMENT" IS SATISFACTORY. (1)

## CHAPTER IV

## THE PROVISION OF FAMILY SERVICES

The public reactions to Section 5 through 10 were very positive. People felt that the Act was quite specific and clear but dificulties arose because the sections read "...the minster may...," instead of "... the minister shall..." A change of the one word would be sufficient to ensure that adequate preventive services are developed.

Beyond noting that the Act needs revision in the stated direction, the Discussion Paper does not give us much help here. The California legislation, stressing in-home support services and specifying certain of these, was cited as one possible model we might adopt. The new Alberta legislation does provide some guidelines but still uses the permissive "may".

There were requests to increase funding of these early intervention services, as mandated under Section 5.(2),(b) of the current Act but since the available funds are of necessity limited, this would mean taking the money from some other program to meet the costs. Theoretically, at least, but probably not in practice for some years, the provision of early intervention would release money from the apprehension and alternative care parts of the service. At present, more money would be required to turn the early intervention and preventive services into something meaningful.

The matter of agreements was bitterly attacked by the parents of a handicapped child who felt that the only agreement they could obtain from the Minister, in a case where special care was needed, required total abrogation of their parental rights and the child's address was even that of the Department of Social Services. These parents said there should be no agreement made which would remove any more parental access, custody and control than is absolutely necessary.

The current Act speaks of preventing a child becoming in need of protection and this is a complex issue. We will address the root causes of inadequate protection below but for now, just deal with the early interventions which should be so called. In other words, the child is brought to the attention of the Minister as in need AFTER an event where protection is threat-

ened even minimally. These are the services which were recommended:

a. homemaker services
b. parent aide programs
c. family support houses
d. respite care
e. transition houses
f. alcohol rehabilitation programs
g. recreational programs
h. day care
i. social skills
j. life skills
k. parent modelling
l. family foster care
m. employment training
n. financial assistance
o. counselling (includes contracted at home counsel)
p. crisis nursery
q. treatment of illnesses, etc. The list could go on and on.

Council, in discussing this early intervention, thought about ways in which families could be offered services and how they could be persuaded to accept services when the child was clearly in need of help. The mechanics of how help can be supplied depend, as so much else does, on good co-operation between the Department of Social Services, government departments and the non-governmental organizations. These are practical procedural and policy matters (see rec. AAA).

Council was concerned about how these early intervention services could and should be implemented. The point was made that there needs to be an aggressive pursuit of the provision of services and programs especially for rural and native populations. These do not have the larger numbers and concentrations of problems but the same issues are there and need to be addressed.

In our recommendations, we made the point that Goverment leadership and seed funding are required to establish these early intervention services. Saskatoon is a good case of a community developing very innovative programs and services in close association with the Department of Social Services. Similar "pilot projects" might be tried in rural or native areas, and indeed, the project proposed by Peyakowak might be such an endeavour.

We would suggest that the Department set standards for all programs and people they are willing to work with and that funding for the projects and programs be annually contracted. Where program gaps exist, the Department should identify these and work with relevant non-governmental organizations to develop services to fill the gaps.

Specific details on the payment for and monitoring of these programs and services should be developed in Department policy and procedures.

The Act could invoke a mediation approach with parents. This process will be discussed under a special section on hearings below. To assess the process, a child would have to be deemed in need of protective services by a social worker or by another person with professional skills in a parallel area of child development and family awareness. The family would have to be reported to the Department who would be required to either establish that there is no case to answer or take action to bring the matter to the parents in the first instance.

Parents and/or the Department could develop a plan to take the family from the present "at need" situation to one of independent competency. Conflicts in the planning could be worked out with the new family guardian. The steps in the process must recognize the overriding principles stated in the preamble. These include ensuring the child's safety, rapid resolution of the emergency situation and dealing with infants on a priority basis.

It is extremely important, we felt, to keep parents fully informed of progress towards the goal of making a plan and encouraging parental participation in planning. Where the parents wish to have others either from their community or as advocates to protect their interest, they too should be kept informed. This brings up the question of records. Briefs spoke about the need for records to be open. Council agrees that there is a need for people to be able to have access to information held about them but questions whether information supplied by others can be passed on to the inquirers. There are matters of confidentiality without which reports, opinions and records themselves might be useless. People will not make out full impressions or state all facts if they feel they may be taken to Court and even charged for their public spirit and concern for children.

49. THAT ANY NEW LEGISLATION SHALL INCLUDE SECTIONS EQUIVALENT TO SECTIONS 5 THROUGH 7 OF THE CURRENT ACT FOR THE WORD "...MAY", THE WORD "..SHALL.." THIS WILL DIRECT THE MINISTER TO CHANNEL FUNDS APPROPRIATELY. (1)

50. THAT THE MINISTER SHALL CONTRACT WITH GROUPS AND ORGANIZATIONS WITHIN LOCAL COMMUNITIES TO SUPPLY THOSE PROGRAMS AND SERVICES MENTIONED IN THE TEXT ABOVE AS A MINIMUM TOWARDS MEETING THE "PROTECTIVE SERVICES" THRUST. (p)

51. THAT ONGOING PROGRAMS AND SERVICES IDENTIFIED AS MEETING THE REQUIREMENTS OF THE MINISTER BE SEPARATELY IDENTIFIED IN POLICY OR REGULATIONS AND INCLUDE PROCEDURES FOR EVALUATION, LIMITS OF ACCEPTABLE SERVICES AND FUNDING. (p) (l)

52. THAT PARENTS BE ENCOURAGED TO PAY FOR SOME OF THESE SERVICES AND PROGRAMS AS THEY ARE JOINT PLANS OF THE DEPARTMENT OF SOCIAL SERVICES AND PARENTS. THIS REQUIREMENT WILL GUARANTEE SOME CONTROL FOR THE PARENTS AND CAN ONLY BE EFFECTIVE IF THE PARENTS HAVE THE ABILITY TO PAY. (a)

53. THAT IN ALL PLANNING FOR SERVICES, THE PARENTAL WISHES BE CONSIDERED ESPECIALLY THOSE PERTAINING TO CULTURAL AND RELIGIOUS VALUES. (p)

54. THAT IF AN EARLY INTERVENTION OR SERVICE CALLS FOR THE DEPARTMENT OF SOCIAL SERVICES TO ASSUME SOME PARENTING FUNCTIONS, THE REMAINDER STAY WITH THE PARENTS. (l)

55. THAT IN PRESENTING EARLY INTERVENTION PLANS TO PARENTS, THE DEPARTMENT OF SOCIAL SERVICES OFFER CHOICES WHEREVER POSSIBLE AND ALSO STATE CONSEQUENCES FOR NON-COMPLIANCE OF THE FAMILY WITH THE PLANS. (l) (p)

56. THAT ALL AGREEMENTS SHOULD BE CAREFULLY DRAWN INDIVIDUALIZED CONTRACTS BETWEEN THE DEPARTMENT AND THE PARENTS. (l)

57. THAT WHERE A CHILD CAN EXPRESS AN OPINION ABOUT PLANS FOR THE FAMILY AND ESPECIALLY ABOUT THOSE WHICH CONCERN HIM, THE CHILD MUST BE A PARTY TO THE DISCUSSIONS AND IF ABLE TO KNOW AND UNDERSTAND THE NATURE OF THE MATTER, A SIGNATORY TO THE CONTRACT. (l)

58. THAT WHERE IN THESE PLANS THERE ARE UNRESOLVED CONFLICTS OVER WHAT IS IN THE CHILD'S INTEREST, AT THE REQUEST OF THE FAMILY GUARDIAN OR THE JUDGE AN ADVOCATE FOR THE CHILD BE APPOINTED. (1) WHERE FEASIBLE, COSTS TO BE ALLOCATED TO THE DISSENTING PARTIES.

59. THAT THE LAW SOCIETY DEVELOP A LIST OF LAWYERS PREPARED TO ACT ON BEHALF OF THE CHILD AND THAT THE FAMILY GUARDIAN AND JUDGE BE SATISFIED WITH THE SPECIAL KNOWLEDGE REQUIRED TO FULFILL THIS ROLE.

60. CONTRACTS MADE BETWEEN THE MINISTER AND PARENTS AND CHILDREN SHALL BE DRAWN FOR THE EXPECTED PERIOD OF SERVICE DELIVERY, NOT ON A ONE YEAR BASIS. CHILDREN DO NOT RENEW THEIR FAMILIES YEARLY. (a)

## CHAPTER V

## APPREHENSION

The child taken into care was the subject of concern by the Minister in his speech, by the Legal Aid Societies and by individual lawyers, as well as by many of the professional groups who submitted briefs. There was a general feeling supporting the Minister's statement that too many were taken into care. However, this was thought to be less important than the fact that pre-apprehension services were sparse and the process of apprehension was alarmingly adversarial and against the spirit of co-operation designed into the original Family Services Act.

Briefs addressed the problem of the social worker acting as counsellor and prosecutor of the parents. We shall return to that point below in discussing the social worker in all aspects of the role.

Further, the discussions expressed concern with the lack of knowledge the parents had about what was happening, the lack of planning done, the delays in bringing an action to Court and the limited options available after apprehension. The rights of parents and children were felt to be compromised by the Court process while the quality of evidence left a great deal to be desired.

Briefs addressed the problem of the original report to the Department that a child is in need of protection, how the parents might face their "accuser" and what penalties should accrue for non-compliance with the reporting requirement or for malicious reports.

Other matters raised included the methods of returning a child to the care of its parents after a prolonged apprehension where the parents either were or were not in continuing contact with the child.

Some of these issues will be dealt with in this chapter, others will appear under the headings: 'The Social Worker', 'Court Process and Rights' and 'Appeals'. The specific areas to be discussed here are the 'Child in Need of Protective Care' and the process and procedures leading to the child being transferred to an alternative family.

There was considerable discussion around the point of how the apprehended child and family will obtain a fair hearing before whom. Many briefs which spoke to this question in our hearings stressed the need for solid community involvement. This was suggested via a community planning board. However, Council thought that whereas community involvement was appropriate for planning and services provision, apprehension was a matter for the Courts.

Transfer of the child from the full care of its parents into a place where the parents have limited contact may be accomplished in three ways, currently on request of the parents under Section 8 (temporary) or Section 11 where the committal is permanent; in an emergency situation under Section 20 and by order of a judge under Section 29. The current limitations on parental control are almost completely at the discretion of the social worker or "officer"; even religious preference is only officially taken notice of in an adoption placement and even then is subject to availability of appropriate substitute parents.

A great deal of energy goes into the preparation for Court, collection of negative evidence about the parents or guardians and much money is spent in the conduct of these cases.

Council would like to see some changes. Firstly, we would like to see the "child in need of protective care" defined separately from the "child in need of protective services."

61. THAT A "CHILD IN NEED OF PROTECTIVE CARE" BE DEFINED AS:

    A. AN ABANDONED, LOST OR ORPHANED CHILD WHO HAS NO OTHER PERSON WILLING TO ACT AS GUARDIAN.

    B. A CHILD IN IMMEDIATE NEED OF RELIEF FROM PHYSICAL, SEXUAL OR EMOTIONAL ASSAULT WHERE THE PARENTS CANNOT OR WILL NOT PROVIDE THIS.

    C. A CHILD AT SERIOUS RISK FOR IMMENENT DANGER FROM WHICH THE GUARDIANS WILL NOT OR CANNOT PROTECT HIM.

    D. A CHILD OR YOUNG PERSON DEMONSTRATING A SERIOUS RISK TO HIS OR HER OWN PERSON WHERE THE GUARDIANS ARE EITHER UNABLE OR UNWILLING TO PROVIDE A SAFE HOME. (1)

This definition is intended to provide for the crisis or emergency removal of a child from a dangerous situation. It includes suicidal, substance abuse and violent or serious promiscuous behaviors.

Next, that where a child is in need of protective care, rapid action occur and the child be admitted to a safe, caring environment which will be available for the projected duration of that child's stay in protective care. If a short stay of perhaps two or three days is contemplated a family need not be provided, but for anything longer than that an alternative family is needed.

And, an immediate request for a "show cause" hearing before a judge must be entered. This hearing must be within three working days of the apprehension. At that hearing the Department of Social Services must show cause that the apprehension was appropriate and necessary.

62. THAT "PROTECTIVE CARE" CONTEMPLATES INVOLVEMENT OF A SUBSTITUTE FAMILY UNLESS THE PROJECTED STAY IN CARE IS TO BE LESS THAN THREE DAYS. (1)

63. THAT FOR A PROJECTED STAY OF UP TO THREE DAYS, THE FOLLOWING FACILITIES MAY BE USED IN THE EVENT A SUBSTITUTE FAMILY IS UNAVAILABLE:

    A. A FACILITY APPROVED BY THE DIRECTOR UNDER THIS ACT.

    B. A PLACE OFFERING TREATMENT FOR PHYSICAL OR EMOTIONAL DAMAGE.

    C. A CRISIS FACILITY OFFERING QUALITY CARE AND PARENTAL INVOLVEMENT WHERE APPROPRIATE AND MEETING THE STANDARDS OF CARE AS SET OUT IN THE POLICIES OR REGULATIONS UNDER THIS ACT.

    D. SUCH OTHER FACILITIES AS MAY BE DEVELOPED AND WHICH FALL UNDER THE STANDARDS APPROVED IN THE ACT. (1)

64. THAT FOR A PROJECTED STAY IN CARE OF MORE THAN THREE DAYS, A CHILD MUST BE PLACED IN A SUBSTITUTE FAMILY. THIS FAMILY SHOULD IDEALLY BE AVAILABLE TO CONTINUE CARE ON A LONG TERM BASIS SHOULD THE COURT OR PLANNING MEETINGS DECIDE. (p)

65. THAT CERTAIN OTHER FACILITIES MAY BE USED FOR PROTECTIVE CARE BUT IN THAT EVENT, THE CHILD SHOULD HAVE A SUBSTITUTE FAMILY IN ADDITION TO THE MINISTER. THESE FACILITIES MUST MEET THE CRITERIA SET OUT IN POLICIES OR REGULATIONS UNDER THE ACT. (1) (p)

66. THAT THE MINISTER OR HIS DELEGATE IS RESPONSIBLE FOR ENSURING THE CHILD'S SATISFACTORY CARE IN A THREE DAY FACILITY, AND THAT EVEN IN THIS SHORT TERM CARE, AS MUCH PARENTAL ACCESS AND CONTROL BE AVAILABLE AS IS CONSISTENT WITH THE CHILD'S SAFETY AND WELL-BEING. (1)

67. THAT THE MINISTER AND PARENTS MAY SHARE IN THE RESPONSIBILITY FOR THE SATISFACTORY CARE OF A CHILD IN LONGER THAN THREE DAY FACILITIES. THIS SHARING WILL BE APPORTIONED BY CONTRACT OR COURT ORDER. (1)

These comments have addressed the issues of quality in short and longer term protective care and accessibility of the child to its parents. Specifics of longer term care will be addressed in 'Protective Care.'

Protective Care could be achieved by:

a) direct application by parents who are willing to meet the admission criteria and pay or share the necessary fees (if any) for service.

b) placement by the Minister following an investigation and with the agreement of the parents (the Department of Social Services pays or shares fees).

c) Placement by the Department of Social Services following an investigation where the parents do not agree but where the social worker sees a real possibility of harm to the child if it remains in a situation AND where NO OTHER ALTERNATIVE CARE which would be safe and healthy for the child exists.

d) Placement by the Court.

68. THE RULES FOR ACCESSING SHORT TERM PROTECTIVE CARE ARE:

A. DIRECT PLACEMENT BY THE PARENTS (FEES BY PARENTS)

B. PLACEMENT BY MINISTER WITH PARENTAL AGREEMENT (FEES SHARED)

C. PLACEMENT BY THE MINISTER WITHOUT PARENTAL CONSENT (FEES PAID BY THE DEPARTMENT OF SOCIAL SERVICES).

D. PLACEMENT BY THE COURT (FEES PAID BY CONTRACT). (a)

The 'rules' above speak of an investigation and that, in turn, presupposes a report or information is laid. It was in this area of the laying of information that some of the more impassioned briefs were heard. Some felt that the reporting of the results of what can be seen as criminal behavior towards another person was somehow improper. There was also the feeling that these reports might be vindictive or malicious and that the victim of the report would be parents in the family reported.

Concerns about reports were also expressed in the opposite direction, noting that a failure to report constituted a condoning of criminal behavior and making the non-reporters in fact an accessory to the deeds. Most brief writers felt that the supplying of anonymous reports allowed a reporter to "get away" with creating a nuisance without accountability. Social workers and others who had a special interest in the field of child abuse noted that unless there were confidentiality, reports would not be made since the, often violent, abusive, family member could direct anger and violence at the reporting person.

We received information about these families and the hazard encountered by social workers or police who interview them and do believe that there is a real problem in completely open reporting. On the other hand, the family will often know that there is only one source such a report could have come from and there is a need sometimes for the report to be entered as evidence in a hearing, especially if the situation is an emergency one and no investigation can be conducted because of family resistance.

Council had extensive discussions about the anonymous reporting of suspected child abuse, bearing in mind the two viewpoints expressed by briefs. It was felt that if a report had been made even anonymously and a child was subsequently injured or harmed, that the Department of Social Services would face major criticism for having failed to act. Council felt that the retention of the anonymous report was the only way to deal with the concern. Anonymous reports should not be stressed nor encouraged, but if that is the only way a child can be assisted then they must be retained.

Having considered these points of view, Council recommends that:

69. REPORTS SHALL BE CONFIDENTIAL TO THE DEPARTMENT OF SOCIAL SERVICES. (a)

70. THOSE REPORTING MUST BE TOLD THAT THEY MAY BE EXPECTED TO GIVE EVIDENCE ON THE MATTER IN THE EVENT OF A HEARING. (p)

71. A PENALTY BE ESTABLISHED FOR FAILURE TO REPORT A CHILD SUSPECTED TO BE IN NEED OF PROTECTIVE SERVICES OR CARE IN THE AMOUNT OF UP TO $1,000. (THE AMOUNT WOULD ORDINARILY BE GREATER FOR A HEALTH, SOCIAL WORKER OR EDUCATIONAL PROFESSIONAL WHO WOULD BE EXPECTED TO RECOGNIZE THE INDICATORS AS PART OF HIS OR HER PROFESSIONAL EXPERTISE). THE NAME OF THE PROFESSIONAL INVOLVED MAY BE GIVEN TO THE APPROPRIATE PROFESSIONAL ORGANIZATION OF THAT PERSON. (l)

72. A PENALTY BE ESTABLISHED FOR MALICIOUS AND FALSE REPORTING AS DEFINED IN SECTION 16 OF THE CURRENT ACT IN THE AMOUNT OF UP TO $1,000. (IN THE EVENT THAT A REPORT IS FOUND TO BE FALSE AND IS SUSPECTED BY THE SOCIAL WORKER TO BE MALICIOUS, THE NAME OF THE REPORTER SHALL BE RELEASED TO THE POLICE FOR FURTHER LEGAL ACTION.) (l)

Council recognized that both malicious, false reports and failure to report were extremely difficult to prove in Court. We did, however, feel that a $1,000 fine would publicly state the importance proper reporting practices have. Even a Court case such as was recently completed in Ontario was felt to be of deterrent value.

Reports by competent professionals should state a degree of urgency to the investigation needed. The Department shall accept these degrees of urgency or investigate more rapidly. In no case should an investigation be delayed longer than ten days from the date of a valid report and the Department shall be held accountable by the child (or his agency) for damages caused by unreasonable delays.

Council felt that in order to ensure a satisfactory supply of substitute families, that an aggressive campaign to find new, excellent foster homes be mounted.

73. REPORTS SHOULD STATE A DEGREE OF URGENCY. INITIAL INVESTIGATION MUST BE COMPLETE BY TEN DAYS FROM THE DATE OF THE REPORT. (p)

Council felt that the Minister does have a direct responsibility to the child and that investigations should be conducted with dispatch.

74. A SECTION SIMILAR TO 16(4) IS NOT CONSISTENT WITH THE DEFINITION OF A CHILD IN NEED OF PROTECTION AND SHOULD NOT BE INCLUDED. (1)

75. A SUBSECTION WOULD BE NEEDED TO EMPOWER THE DEPARTMENT TO TAKE ACTION ON BEHALF OF A CHILD IN NEED OF PROTECTIVE SERVICES OR PROTECTIVE CARE. (1)

76. SECTION 17 OF THE CURRENT ACT IS NOT NEEDED UNDER THE GENERAL PROVISION OF PROTECTIVE SERVICES IN THE REVISED VERSION. (1)

The next matter to be considered is the provision for a hearing after an emergency apprehension. The general view of Council and many briefs was that this hearing should be rapid and should be a "show cause" hearing.

77. IN PLACE OF SECTION 21 (FAMILY SERVICES ACT, 1973) A DATE FOR A SHOW CAUSE HEARING BE GIVEN TO THE FAMILY AT THE TIME OF APPREHENSION OR AS SOON AFTER AS IS PRACTICABLE. THIS HEARING IS TO BE WITHIN THREE WORKING DAYS OF THE APPREHENSION. NOTICE OF HEARING SHOULD STATE THE RIGHT OF THE PARENTS TO BRING WITH THEM ANY OTHER INTERESTED PARTIES. (1)

78. THE "SHOW CAUSE" HEARING SHALL:

    A. DETERMINE THE APPROPRIATENESS OF THE APPREHENSION.

    B. SET A DATE FOR A CHILD PROTECTION HEARING BETWEEN THREE AND FOUR WEEKS LATER. (1)

79. AT A "SHOW CAUSE" HEARING, THE JUDGE MAY:

    A. RETURN THE CHILD TO ITS PARENTS WITH NO STIPULATION.

    B. RETURN THE CHILD TO PARENTS WITH STIPULATIONS INCLUDING THE ALLOCATION OF CUSTODY BETWEEN PARENTS.

    C. CONTINUE THE APPREHENSION IN A SUBSTITUTE FAMILY APPROVED BY THE DEPARTMENT AND, IF POSSIBLE, BY THE PARENTS ALSO.

    D. STIPULATE CONDITIONS OF INTERIM ACCESS AND CUSTODY FOR THE PARENTS WHILE THE CHILD IS IN CARE.

    E. RETURN THE CHILD TO A SUFFICIENTLY INTERESTED OTHER PERSON WITH OR WITHOUT CONDITIONS.

    F. THE CUSTODY OF THE CHILD SHALL NOT BE USED AS A THREAT TO COMPEL COMPLIANCE. (1)

80. THAT FAILURE TO COMPLY WITH CONDITIONS SHALL CONSTITUTE AN OFFENCE UNDER THE ACT. (1)

Council was concerned over the tendency for the child to be removed from a home instead of the person or person responsible for the abuses. The recommendations above give some substance to the idea that a Provincial Court Judge should have the power to issue a restraining order to a person denying access to the home or preventing unacceptable behaviour.

81. THAT A PROVINCIAL COURT JUDGE BE EMPOWERED TO REMOVE A PERSON EVEN FROM HIS OWN HOME. (1)

We do recognize that the rapid hearing may create some logistical problems for the Courts but this kind of process may well save time further down the court process. How these hearings are managed and supplied is a matter for the Justice Department.

## CHAPTER VI

## COURT PROCESS AND RIGHTS

The routine process in which the Minister or deputised social workers become involved in the lives of a family is: information, investigation, planning, supervision, apprehension, care and relinquishment. This process may halt at any step of the way. Additionally, the Family Services Act allows the social worker to facilitate the provision of resources to families in need.

The court process may become involved in any step along the way under the suggestions of briefs and our own discussions. The Courts may:

a) be involved because of false, malicious reports,

b) be involved in an appeal from investigation,

c) be involved in a dispute over planning,

d) order supervision,

e) order apprehension or hear an appeal,

f) define conditions of care,

g) order the return of the child to its parents.

The Courts serve as a balance, preventing the over use of discretionary powers by the social worker and backing up legitimate needs of the child for protection. Council recommends:

82. THAT THE COURT PROCESS PARALLEL THE PROCESS OF DETERMINING THE NEED FOR AND SUPPLY OF PROTECTIVE SERVICES AND PROTECTIVE CARE. (p)

83. THAT PARENTS OR GUARDIANS MAY HAVE RECOURSE TO THE COURTS AT ANY TIME IN THE PROTECTION PROCESS AND THAT THEY MAY HAVE ANY PARTY WITH AN INTEREST IN THE MATTER HEARD IN COURT WITH THEM. (l)

84. THAT THE PARENTS IN APPLYING TO THE COURT SHOULD PLACE BEFORE THE COURT A PLAN FOR THEIR CHILD AND ITS FUTURE. THE JUDGE WOULD BE OBLIGED TO CONSIDER THE PLANS OF BOTH PARENTS AND THE SOCIAL WORKER IN DETERMINING THE MORE SUITABLE OF THE TWO OR POSSIBLE COMBINATION OF ELEMENTS OF EACH. (p)

85. THAT THE COURTS NEED SOME MECHANISM TO DEAL WITH A GUARDIAN WHO HAS CAUSED PHYSICAL, SEXUAL OR EMOTIONAL HARM TO A CHILD. THE OFFENDING PARENT OR GUARDIAN WILL NEED SOME FORM OF CONTROL EITHER IN RESTRAINING FROM FURTHER HARM, OR SECURING NEEDED TREATMENT. (1)

The matter of Hearings was considered by Council which felt that the emergency "show cause" hearing referred to above was satisfactory as a beginning but that further changes were needed to ensure that the principles of rapid determination, minimal Court hearings and fairness could be met.

Council suggested the intervention of a mediating process where necessary in the protection process. The chain for the worst possible cases, would now read:

Information - Investigation - Planning - Mediation - Supervision - Apprehension - Care.

A loop could be built in to allow the judge to order the completion of the mediation process if "protective services" were needed. The system would then read:

INDEPENDENT FAMILY LIFE
"PREVENTIVE SERVICES " "PREVENTIVE CARE"

info - Investigation - Plan - Mediation - Supervision - Apprehension - Return

C O U R T P R O C E S S C O U R T P R O C E S S C O U R T

In this suggested protection process, INFORMATION would be laid, as at present with the police. The police should be informed of every instance of child abuse but the decision to prosecute should be arrived at jointly between the police and the social worker. Information would be accepted whatever its source (see R69) and an investigation would be launched.

The INVESTIGATION may be joint, with the police, or solo by the social worker and may conclude with a negative report. This should be given to the complainant and to the family investigated. If the Report is negative, unsubstantiated and appears to be malicious, the name of the complainant is released to the police for formal process under the Act.

Where an investigation is positive and grounds for continuing concernexist, the social worker may:

a) discuss concerns and offer protective services

b) offer protective care

c) in an emergecny, if the child meets the criteria of a child in need of protective services, the social worker may apprehend the child. In this case, parental approval of the substitute family would be ideal.

At this point in the process, the parent may request a Court intervention or a mediation hearing to determine if planning is required or if apprehension is justified. In the latter instance, where the social worker has removed the child to a suitable facility (see R77) there must be a "show cause" hearing automatically within three days of apprehension.

The social worker and parents or guardians, having recognized a cause for concern, shall develop a comprehensive PLAN for protective services. Assistance with resolving disputed parts of the plan can be sought from the family guardian (see R40). Unresolved disputes following the mediation of the family guardian shall be referred by the guardian to the Court for a Child Protection Hearing. Plans approved by the parents and social worker shall be so noted by the guardian and any plan calling for child apprehension of longer than three days shall go to the judge for approval. In an agreed-upon plan there shall be no hearing unless either the family guardian or the judge has concerns over possible coercion.

Parents or guardians can appeal to the Child Protection Hearing at any point along the planning process if they are satisfied.

Plans for PROTECTIVE SERVICES should cover, where appropriate, apprehension, who cares for the child and plans for the return of the child under what conditions. The planning should cover, ideally, the whole span from Intervention through service provision to a return to full independent family living. Either family members or the social worker may renegotiate plans at any point, seeking mediation where necessary.

Some prediction of the projected length of stay in PROTECTIVE CARE shall be made by the social worker at the outset of planning and may be modified from time to time. This length of stay should take into account the age of the child, the probability or otherwise of family reintegration and the availability of resources. No child should be in an equal or worse situation after apprehension.

In the best case, where a child was apprehended it would be by contract between the social worker and the parents or guardians with guaranteed access, custody, conditions and length of stay in the alternative family all spelled out and accepted by both parties. This agreement should be checked by the judge but a hearing would not be necessary. The matter of undue coercion would have to be considered.

In the worst case, every step of the process could be contested with disastrous results for the child. Steps need to be taken to ensure a maximum number of hearings and a time within which all hearings and determinations must be complete. A child's rights may be compromised by the current appeals through various Acts to prevent an orderly resolution of the family problem.

The matter of hearings was considered by this Council. It was felt that the emergency "show cause" hearing referred to above was satisfactory as a beginning but that further changes were needed to ensure as rapid a determination of issues as is possible. This concern is based on the premise that the longer a child is in care without a determination on which constructive planning and services can be built, the more disastrous the consequences for the child.

The Council saw apprehension as taking two forms. The first case envisages apprehension by agreements or contract between the Minister of Social Services and the parents or guardians. In such agreements, matters of access, custody, conditions, and length of stay in the alternative family would all be addressed, where applicable. It was thought that such agreements should receive judicial approval, and thereby become the basis of a Court order.

In the second form of apprehension, where agreement cannot be reached, the movement of a case through the Court process with a determination being made by the Court would be necessary. It was felt essential that the total time taken for a determination in this second form of apprehension be limited, particularly where the protective care is likely to be temporary.

It is therefore recommended that:

86. THAT, EXCEPT IN CASES OF PERMANENT ORDERS OF COMMITTAL, A MAXIMUM TIME OF 12 MONTHS IN PROTECTIVE CARE BE SET, FROM THE TIME THE CHILD IS TAKEN INTO CARE.

The knowledge that the total time in temporary care would be limited to 12 months would serve to encourage a rapid determination of the matter in the Court process, particularly if there was a legislative time limit for the commencement of the hearing, such as is contained in recommendation #78. The Council considered whether there should be a stipulation in the Act requiring the conclusion of a child protection hearing within a specific time (within the maximum 12 month period for temporary care). This question was debated by Council members and a recommendation for determination of the hearing within a specific time of eight weeks was arrived at. It was agreed that as rapid a conclusion as possible should be made.

Council also debated the question of permanent wardship and its implications. The feeling was that even in permanent wardship, children should not be denied access to their natural parents at any time if this was helpful. Subsidized adoption or foster care were considered as suitable alternatives to the series of temporary wardships made previously.

87. THAT A CHILD PROTECTION HEARING BE CONCLUDED WITHIN EIGHT WEEKS OF A PLANNED APPREHENSION OR OF A "SHOW CAUSE" HEARING, OR WITHIN SEVEN DAYS OF AN APPLICATION. (1)

88. THAT THE COURT IN A CHILD PROTECTION HEARING MAY:

    A. CONSIDER PLANS MADE BETWEEN THE PARENTS

    B. RETURN THE MATTER TO THE MEDIATION PROCESS

    C. MAKE ORDERS AS IN A "SHOW CAUSE" HEARING

    D. STIPULATE LENGTHS OF TIME FOR DIFFERENT PARTS OF A PLAN FOR THE FAMILY

    E. MAY DETERMINE MATTERS OF CUSTODY AS BETWEEN PARENTS, GUARDIANS AND OTHER PARTIES

    F. MAKE AN ORDER FOR THE CHILD TO BE IN PERMANENT CARE OF THE MINISTER

While there is an application brought to the Court for a hearing and determination, it is recommended:

89. THAT AN APPLICATION FOR A HEARING MAY BE MADE AT ANY STAGE OF THE CHILD PROTECTION PROCESS BY THE PARENT OR GUARDIAN OF A CHILD OR BY THE FAMILY GUARDIAN. (1)

It will be noted that this is not an alternative for the Minister, except in cases of inability or unwillingness to arrive at a plan for the child in the natural or extended family.

90. APPLICATIONS FOR A CHILD PROTECTION HEARING MUST STATE THAT THE APPLICATION IS FOR:

A. PROTECTIVE SERVICES OR

B. PROTECTIVE CARE (1)

There have been an increasing number of applications under the Infants Act to try and prevent a child being placed in the custody of another family. These applications are an attempt to stop the child's legitimate interests and are to be deprecated. It is clear that lawyers need some education in their pursuit of the best alternative for their clients. What the law permits is not necessarily what is best for the parties involved.

91. THAT THE FAMILY SERVICES ACT TAKE PRECEDENCE OVER ALL OTHER ACTS IN THE DETERMINATION OF A CHILD'S FUTURE. ONE WAY OF DOING THIS WOULD BE THAT THE INFANTS ACT BE AMENDED TO PROVIDE THAT IN THE EVENT OF AN APPLICATION BEING BROUGHT UNDER THE INFANTS ACT FOR CUSTODY OF A CHILD WHO IS THE SUBJECT OF A PENDING OR ONGOING PROTECTION HEARING UNDER THE FAMILY SERVICES ACT, THAT THE TWO APPLICATIONS WILL MERGE AND BE HEARD TOGETHER, AND THAT THE COURT HEARING SUCH APPLICATIONS BE EMPOWERED TO MAKE THE SAME ORDERS AS A JUDGE ACTING UNDER THE FAMILY SERVICES ACT.

This is in fact another reason why a Family Court Judge, hearing the matter could appropriately deny an application under the Infants Act.

92. THAT AT A CHILD PRTECTION HEARING, THOSE NOTIFIED WITH A RIGHT TO APPEAR AND BE HEARD SHOULD BE:

A. THE PARENTS OR GUARDIANS

B. THE MINISTER BY HIS REPRESENTATIVES (SOCIAL WORKERS, SUPERVISOR)

C. THE CHILD IN QUESTION IF OLD ENOUGH TO UNDERSTAND WHAT IS BEING CONSIDERED

D. THE SUBSTITUTE PARENTS

E. THE APPROPRIATE INDIAN BAND OFFICE

If a stipulation is necessary, provision should be made that counsel for the foregoing may also appear.

Council was concerned that certain people be entitled to be present at the hearing, although they would not be entitled to formal notice in accordance with recommendation #92. Moreover, it is contemplated that such people would not as a right be entitled to be heard, unless compelled to give evidence as a witness.

93. IT IS RECOMMENDED THAT A PROVISION BE MADE ENTITLING ANY PERSON TO BE PRESENT WHERE THE PARENT OR GUARDIAN OR THE CHILD REQUESTS.

There was discussion about allowing children to sit in Court. The argument that they needed to hear what was being decided about them carried more weight. The areas of criticism of parents or others could be avoided by holding those parts of the hearing without the children.

Council was concerned that an interested biological parent or one who had developed a close relationship with the child and would ordinarily not be notified or actively excluded by an existing parent should attend. The term parents or guardians is, in the recommendation above, all embracing as is the definition of "parent" in the preamble.

The whole matter of the rights of the child was discussed by Council in addition to the statement of principles. Children were assumed to have the following rights:

a) to safety

b) to stability and security of home

c) to education

d) to health care

e) to privacy

f) to be heard

g) to counsel

h) to be a person not chattel

i) to access to information about bilogical parents and cultural heritage

Parents were assumed to have these rights without negating any others possible:

a) to steer the child's social and moral development

b) to know what is being planned for the child

c) to information on what has been reported or opined about the child or family

d) to express their opinion and communicate

e) to seek and choose help

f) of access to the child (as long as the child is not harmed physically or emotionally)

Substitute parents should be allotted the same set of rights either partially or jointly with the natural parents.

The rights of the minister were discussed and were felt to need careful clarification. The minister cannot take care of the children given into his care. He must delegate the practical parenting to others. How much say the minister should have in the matter was of concern. Foster parents were distressed that they were expected, on the one hand, to write a foster child into their will and on the other, could have the child snatched away without warning and without representation.

94. THE SPECIFIC RESPONSIBILITIES OF PARENTS IN RELATION TO CHILDREN MUST BE DETAILED AND RESPECTED. THE RELATIVE ALLOCATION OF THESE TO THE PARENTS AFTER A NEED FOR PROTECTION SERVICES OR CARE HAD BEEN ESTABLISHED, IS AN IMPORTANT TASK FOR THE JUDGE. (1)

95. THAT THE COURT MUST DETERMINE:

    A. IF THE CHILD IS IN NEED OF PROTECTIVE SERVICES OR PROTECTIVE CARE AND

    B. WHAT SHOULD BE THE PLAN FOR THE CHILD AND FAMILY, GIVEN THE OPTIONS PLACED BEFORE HIM. (1)

Admissible evidence to the hearing should in general follow the rules of evidence in other Courts. Too much informality can produce problems of accepting inadmissible evidence. The question of admissibility of the evidence presented during a mediation hearing was discussed.

On the matter of accessibility of Social Services files to counsel for the guardians, the Council was of the opinion,

96. THAT SOCIAL SERVICES FILES SHOULD BE OPEN TO FAMILIES EXCEPT FOR THE NAME OF THE REPORTER WHO LAID INFORMATION ABOUT THE FAMILY. THE MINISTER COULD APPLY TO THE COURT TO EXCLUDE INFORMATION THOUGHT TO BE DAMAGING FOR THE PARENTS TO KNOW. (p)

97. THAT THE COURT COULD SET A REVIEW DATE TO SEE HOW THE PLANS HAD MATURED AND/OR DECIDE ON THE NEED FOR FURTHER ACTION. (1)

## CHAPTER VII

## THE SOCIAL WORKER

This chapter addresses the role of the social worker, the discretionary powers available to the social worker and the training and practical skills needed for practice. Council is stepping outside the strict confines of the Family Services Act here but remains within the scope of the mandate given by the minister and discussed in the briefs received.

One point of special concern was the dual role which has to be played by the social worker as counsellor and as the person presenting the case in a hearing. Several briefs noted that this represents a conflict which is difficult to resolve, but the bulk of social workers we talked to seemed to think that they could not only cope with the dual role but that it was essential that they should.

They pointed out that the parents are often in need of both affection and guidance and that direct confrontation, painful though it may be, is sometimes the only way of teaching a person. Parents must discipline as well as care.

In discussing with Council their role with clients, social workers expressed grave concern at the number of papers and files which were required to manage the whole operation. Council asked for and received blank files in each of the major social work functions of the Department of Social Services. These did present a formidable problem and their completion was alleged in some instances to amount to sixty percent of the worker's time.

Other issues raised included differences between different regions and the "unfairness" with which programs were implemented. Some clients were told of all the possible benefits and monies which were available, others were not and had to wait until they raised the question before receiving information.

Council was concerned over these latter problems, feeling that paper work, although extremely important, should not have to occupy such a large proportion of the working day. There is clearly room for improvement in managerial efficiency and in the recording of information.

We appreciate that there is continuing effort on the part of the Department to improve its own efficiency but the principle used ought to be that the maximum amount of service is delivered with the minimum of administrative overhead. Private organizations are severely criticized for administrative overhead and many have found ways to produce excellent service with minimal paperwork. Continued progress towards a fully integrated computerized system is commended and encouraged.

Further, we would like to see that clients receive an informational package in the form of a printed brochure on ALL the benefits that their situation can access. Specific policies are needed to address regional disparities and perceived unfairness in the whole system. However, these suggestions are more in relation to the operation of the Saskatchewan Assistance Plan than child protection.

98. COUNCIL RECOMMENDS THAT CONTINUED EFFORTS TOWARDS AN EFFICIENT MANAGEMENT SYSTEM BE ENCOURAGED, ESPECIALLY THOSE EFFORTS TO INCREASE THE PROPORTION OF SOCIAL WORK AS OPPOSED TO PAPER WORK. (a)

99. THAT CLEARLY WRITTEN POLICY DOCUMENTS AND PUBLICLY AVAILABLE BROCHURES SPELL OUT THE SPECIFIC HELP THAT CAN BE OBTAINED FROM THE DEPARTMENT BY PEOPLE IN DIFFERENT SITUATIONS. (p)

100. THAT IT IS PART OF THE SOCIAL WORK FUNCTION TO CONFRONT A PERSON WHO IS HAVING TROUBLE IN SELF-MOTIVATION AND IN SELF-CONTROL. THIS AUTHORITARIAN POSITION IS AN INEVITABLE PART OF THE JOB AND SPLITTING THE FUNCTION BY HAVING A LAWYER DO ONE AND A COUNSELLOR DO ANOTHER IS NOT CONDUCIVE TO AN INTEGRATED RESULT. (s)

101. WITHOUT PREJUDICING THE INTRODUCTION OF A LAWYER OR CONTRACTED COUNSELLOR, COUNCIL RECOMMENDS THAT SOCIAL WORKERS UNDERTAKE TO COUNSEL AND CONFRONT. (s)

Council has already defined a social worker but there were concerns stated about the basic training for social work, the qualifying standards for practice in the department, the aquisition of practical skills and the fitting to the administrative procedures and regulations of the Department of Social Services. Briefs suggested that social workers were sometime arbitrary, sometimes apparently unfeeling or uncaring for the effects their actions had on others and sometimes lacking in the needed

skills to be effective. One complaint suggested that rural services were staffed by less skilled workers than urban programs and that a succession of workers passed through these testing grounds.

Council was impressed by the eagerness with which social work academics and field workers came forward with the desire to express themselves to the Minister via the Council. They said, and we concur that they need some improved vehicle of communication with the public and the policy makers. Council recommends:

102. THAT THERE BE A REGULAR OFFICIAL INFORMATION EXCHANGE BETWEEN THE DEPARTMENT OF SOCIAL SERVICES AND THE PUBLIC. (a)

103. THAT THE IMAGE OF SOCIAL WORKERS AND THE POSITIVE ASPECTS OF THE WORK OF THE DEPARTMENT OF SOCIAL SERVICES ARE IN NEED OF IMPROVEMENT. A PUBLIC RELATIONS CAMPAIGN IS REQUIRED AND SHOULD BE DEVELOPED. (s) (a)

104. THAT THE FACULTY OF SOCIAL WORK BE ACTIVELY RECRUITED AS INDEPENDENT ASSESSORS OF DEPARTMENTAL FUNCTION. THE DEPARTMENT OF SOCIAL SERVICES SHOULD MAKE A SPECIFIC REQUEST AND SUPPLY THE NEEDED STATISTICS, FILES AND PERSONNEL. (a)

Various aspects of training were addressed by briefs but the details are too complex to go into deeply in the time allotted to us, nor do we as a Council feel that we have the expertise needed to evaluate all the suggestions in this area. There is, for example, the debate over whether to have specialists or to have all social work done by generalists. Arguments are convincing both ways.

105. CERTAIN ISSUES IN SOCIAL WORK PRACTICE CANNOT BE COVERED BY THIS REPORT BUT ARE A CONTINUING CONCERN OF THE PUBLIC. IT IS IMPORTANT THAT A HIGH STANDARD OF TRAINING AND OF CONTINUED UPDATING OF KNOWLEDGE BE PRACTISED BY SOCIAL WORKERS. FUNDING IS REQUIRED TO ENSURE A QUALITY PROFESSIONAL SERVICE. (s) (p)

Council looked at the possibility of professional accountability for social workers and has gone some way in this direction by suggesting adherence to the Canadian Code of Ethics. Another point made above is the allocation of culpability for non-reporting and informing the professional organization of this. Most practitioners will feel more comfortable operating within a clearly defined philosophical framework, so, we suggest:

106. THAT THE PRESENT DESIRE OF SOCIAL WORKERS FOR THEIR OWN EFFECTIVE PROFESSIONAL ASSOCIATION, DEFINING LICENSING STANDARDS BE SUPPORTED. (s)

## CHAPTER VIII

## MISCELLANEOUS APPEALS

It is necessary to have a well known process whereby the parties can appeal from the decisions made at different levels of intervention. Many of the difficulties, we were advised, would be eased if the parties knew of an appeal process and could feel that their wishes had been adequately dealt with. Each level of appeal should be able to alter the decisions of the previous level but an infinite series of appeals would be detrimental to the child who might be retained in care or a dangerous situation in the meantime.

107. THE RIGHT TO APPEAL AND TO WHOM, MUST BE NOTIFIED TO THE PARTIES AT THE TIME OF A MAJOR DECISION. A STATEMENT ON THE PLACEMENT OF THE CHILD IN THE INTERIM, PENDING APPEAL MUST ALSO BE MADE, WITH REASONS. (1) (a) (p)

108. AN APPEAL FROM THE COURT CAN BE MADE TO A HIGHER COURT. (1)

Council follows that the projected Alberta Act - Bill 105 - in recommending that:

109. AN APPEAL AGAINST AN ADMINISTRATIVE DECISION OF THE DEPARTMENT OF SOCIAL SERVICES OR ITS AGENTS CAN BE MADE TO AN APPEAL PANEL OF SOCIAL SERVICES AND THIS APPEAL SHALL BE FINAL. (p) (1) (a)

110. AN APPEAL PANEL BE ESTABLISHED UNDER THE ACT TO HEAR APPEALS FROM PARENTS, SUBSTITUTE PARENTS, GUARDIANS OR CHILDREN OR PARTIES ACTING ON BEHALF OF ANY OF THESE. THE APPEAL PANEL MUST CONTAIN A REPRESENTATIVE OF THE DEPARTMENT, A REPRESENTATIVE OF THE FAMILY's COMMUNITY, A PERSON KNOWLEDGEABLE IN CHILD DEVELOPMENT, A PERSON KNOWLEDGEABLE IN FAMILY LAW AND A MEMBER OF THE GENERAL PUBLIC. AT LEAST TWO OF THESE PANELISTS MUST BE WOMEN. (p)

## CHAPTER IX

## NATIVE CONTROL OF CHILD PROTECTION

Council heard briefs from the native community requesting complete control of native child protection by natives. We also heard briefs which expressed grave concern at the possibility of a double standard in law and child protection.

Those advocating native control appeared to assume that because there had been past problems in the protection area resulting in massive discrepancies between numbers of apprehended natives and non-native children that therefore native control would improve the situation.

Those counselling caution felt that there was too small a number of native people with the skills to analyse a child protection situation and to make informed decisions on behalf of the child. Even the cautious, however, were concerned at the discrepancies and at the apparently poor outcomes of apprehended native children.

Protection Cases Admitted
by Ethnicity and Year

| Year | Total Protection Admissions | Non Native Protection Admissions | Native Protection Admissions |
|---|---|---|---|
| 1982-83 | 1,822 | 714 | 1,108 |
| 1981-82 | 1,732 | 668 | 1,064 |

Direct testimony from apprehended native youngsters supported the idea that problems resulted from overzealous apprehension and too little thought being put into post apprehension planning. We were distressed at the lives some of the children had endured. Their testimoney included description of physical and sexual assault and neglect, but focussed most frequently and clearly on the loss of parental guidance, discrimination and loss of cultural identity.

Fortunately, some briefs made suggestions on improved native child care. We were impressed with the work done in educational institutions for native workers in social work areas. We also noted that one sixth of all foster homes are native even though proportionately, these did not meet the demand

for native foster care (about 60% of all apprehensions). Peyakowak in its presentation focussing on the perils of cross-cultural adoption, also offered a new program of family support which is very positive and will be useful if implemented.

Foster Homes

| Year | Native | Non-Native |
|---|---|---|
| 1983 | 155 | 796 |

Council heard about the desire of Treaty Indians for political control of all aspects of their lives including child welfare. Also mentioned were the difficulties attendant on what seems to be confused law between the federal and provincial governments. For example, the Indian Act does not mention child welfare and the British North America Act rehabilitated as the Canada Act states that any matter not explicitly federal is provincial.

In discussion, it was felt that there should only be one law but that the law should provide for the legitimate aspirations of any community, including a native one, for a strong "say" in how services are to be delivered. The "say" was to be incorporated by encouraging input from community at all points of the protection process and by priorizing the community as the place to turn for services.

The problem of assuring adequate native input to the family's life will remain until sufficient native resources funded and supported by community goodwill, are emplaced. Council felt that by demanding the implementation of Sections 5, 6, 7 and 8 or their equivalent in new legislation, that these requirements would progressively be met. However, Council does not agree that 'any life in a native community is "better" than life in a good substitute family.'

Council recognizes that the desire for native control of native lives springs from serious economic deprivation, lack of cultural religions and language recognition and a failure of the total population to meet the problems of poverty, housing, isolation, unemployment, loss of resources and prejudice. It also recognizes that children raised in a climate of destructive violence, alcoholism or neglect will tend to perpetuate these behaviors. Where a native community can offer adequate protection, it is better than the equivalent or more affluent non-native community. Where, however, the child is in danger of short or longer term damage, then assistance must be rendered to the child.

A further responsibility rests with the non-native community to work effectively with the native groups to resolve the underlying problems mentioned above.

Models of tripartite or multipartite agreements from Manitoba and elsewhere were discussed and felt to be fine, as was the making of specific contracts between chiefs and the Department of Social Services in respect to either child protection services in general or a child in particular. It was noted that the province must retain financial power and insist on quality control, even if this has been shown to have been inadquate in some past instances.

111. THAT THE PROVINCIAL GOVERNMENT MOVE TOWARDS NATIVE RESPONSIBILITY FOR NATIVE CHILDREN ON AND OFF RESERVES. HOWEVER, BECAUSE OF THE REQUIREMENT FOR SKILLS AND EXPERTISE IN THE AREA THE DEPARTMENT MUST CONTINUE TO BE INVOLVED UNTIL SATISFIED WITH THE QUALITY OF SERVICE THAT CAN BE DELIVERED. (a)

112. IN DELIVERING SERVICES TO FAMILIES, THAT LOVE, CULTURE AND CONCERN BE RATED MUCH HIGHER THAN MATERIAL COMFORT IN ASSESSING THE ABILITY OF A HOME TO PROVIDE CARE. (p)

113. THAT SAFE LOVING CARE OF NATIVE CHILDREN IS IMPORTANT IN AND OF ITSELF. CHILDREN CANNOT BE PAWNS IN THE POLITICAL PROCESS. (p)

A possible native court system was discussed as a part of the process where natives would become more responsible for decision-making in child protection. The Federation of Saskatchewan Indian Nations would prefer a native court for civil and criminal matters and Council could not see why progress in this direction should be halted. There are already some Justices of the Peace on reserves and it is also important to have mechanisms to involve the elders of the Nations. Council regretted that elders had chosen not to make any representation to us. We could have learned from their ideas and wisdom.

114. COUNCIL RECOMMENDS A CONTINUATION OF A JUSTICE SYSTEM WHICH INCLUDES MEANINGFUL INVOLVEMENT BY INDIANS BUT THAT IN THE MEANTIME, ELDERS COULD BE CALLED INTO THE COURT PROCESS OR MEDIATION PROCESS BY INVITATION OF THE PARENTS OR THE BAND. (p)

115. FUNDING FOR INDIAN PROGRAMS IS COMPLEX. THE FEDERAL GOVERNMENT HAS THE RESPONSIBILITY FOR THE OVERALL CARE OF INDIANS AND SO COULD PAY MONEY TO THE PROVINCE WHO IN TURN COULD MONITOR ITS USE BY THE NATIVE POPULATION. (p)

Among the recommendations advanced by the Federation of Saskatchewan Indian Nations was a moratorium or interracial adoption of native children from the province. A similar moratorium had been adopted in Manitoba and recommended in Alberta. In looking at this problem, Council took into account native and non-native out of province permanent fostering, institutionalization and adoptions. We noted that there is a currently rising number of native children of unmarried mothers coming into care (64 in the current year) and that most of these called for long term care. Any alternative proposal would have to find at least 64 native homes each year in Saskatchewan to cope with the problem.

Of course, we hope that better early intervention services coupled with a lowered frequency of apprehension and better care of 16 and 17 year olds would reduce the number but many would remain and children require permanence. A moratorium could only be effected if there were sufficient homes for these children. Therefore the Council recommends:

116. THAT IF THE NATIVE COMMUNITIES CAN, WITH FINANCIAL AND PERSONNEL ASSISTANCE FROM THE DEPARTMENT OF SOCIAL SERVICES, FIND A SUFFICIENT NUMBER OF QUALIFIED NATIVE ADOPTIVE HOMES WITHIN THE PROVINCE, THAT THERE BE NO INTERRACIAL ADOPTION IN SASKATCHEWAN. (a) (p)

117. A PERMANENT STOP ON NATIVE ADOPTION OUTSIDE SASKATCHEWAN EXCEPT TO FAMILY MEMBERS BY CUSTOM BE CONTINUED. (p)

118. THAT SUPPORTED ADOPTION BE CONSIDERED AS AN ALTERNATIVE TO REGULAR ADOPTION FOR NATIVE AS WELL AS HANDICAPPED CHILDREN. (p)

119. INCREASED CO-OPERATION WITH THE NATIVE COMMUNITIES ACROSS SASKATCHEWAN ON THE BASIS THAT BOTH THE DEPARTMENT OF SOCIAL SERVICES AND THE NATIVE COMMUNITIES HAVE THE INTERESTS OF THE CHILDREN AT HEART. THIS IS NOT PRIMARILY A FINANCIAL PROPOSITION. CLEARLY THERE ARE WAYS THAT IMPROVEMENTS CAN OCCUR AND HAVE BEEN OCCURRING OVER THE PAST FEW YEARS. (p) (a)

Council was somewhat hampered in its discussions on the questions of native adoption and native child welfare by its lack of fundamental information. We were, however, not a fact-finding mission but a community group and we fear therefore that the whole issue of native care of children deserves intensive study and action.

The overall goal of native child care would be the achievement of adequate child care by natives using whatever means they found best. The question of 'what is adequate' remains somewhat moot. To achieve this goal it has been shown that:

a) more financial help is not necessarily the answer

b) there is a need for trials and projects in conducting and co-ordinating efforts by several fronts simultaneously. Certainly these efforts should embrace socioeconomic issues and concern themselves with social developments.

XXX COUNCIL RECOMMENDS THAT A SMALL SPECIAL TASK GROUP BE ESTABLISHED FROM SOCIAL SERVICES, ACADEMIC SOCIAL WORK, THE NATIVE GROUPS AND OTHER INTERESTED PERSON TO CO-ORDINATE THE DEVELOPMENT OF NATIVE PREVENTIVE, SUPPORTIVE, EARLY INTERVENTION AND PROTECTIVE SERVICES WITHIN AND ON BEHALF OF THE NATIVE COMMUNITIES. THIS TASK GROUP WOULD BE ONGOING AND SUPPLIED WITH ALL NECESSARY LOGISTIC ASSISTANCE UNDER SECTION 5(2) OF THE CURRENT FAMILY SERVICES ACT OR ITS EQUIVALENT UNDER NEW LEGISLATION. (a)

## CHAPTER X

## FUNDING AND PROTECTIVE SERVICES

Some of the briefs received noted that real progress in implementing early intervention or preventive programs would only come if adequate injections of new money were made available to pay for these. They noted that some savings could be expected if a fall in court appearances or court ordered apprehensions took place, but still pointed out that particularly in the initial phases of new programs, money would be needed.

Council recognizes that the recommendations being made in this report would cost additional money. One way of dealing with this would be by an administrative increment to the supportive services annually and a corresponding decrement to the apprehension or court services.

Council also discussed the sharing of financial responsibility between the minister and parents or guardians. This is relevant in dealing with the question of control of the programs children are offered. The person paying for the service has a much greater desire to see quality is maintained and that the services are as promised. It also has relevance to the foster parents and whether they should be seen as paid employees of the government or people who supply a needed service and are rewarded by having children live with and love them. The debate remains fairly heavy in this latter area and is, as far as Council is concerned, unresolved. We recommend:

120. THAT THE RELATIVE PERCENTAGES SPENT CURRENTLY ON PREVENTION AND ON VARIOUS APPREHENSION SERVICES ULTIMATELY BE REVERSED. THE CHANGE SHOULD BE EFFECTED GRADUALLY BUT WITHIN A SPECIFIED 5-10 YEAR TIME FRAME. (a)(p)

121. THAT IN SUPPORTIVE SERVICES, MOST OF THE MONEY BE SPENT IN THE COMMUNITY SO THAT THE COMMUNITY HAS A SAY IN FINANCIAL SPENDING. OTHER COMMUNITY AND PARENTAL FUNDING CAN BE USED IN ANY PROGRAM IMPLEMENTED FOR AND ON BEHALF OF THE CHILD. (p)

122. AN INTERNAL STUDY IN THE DEPARTMENT OF SOCIAL SERVICES IS NEEDED TO DETERMINE HOW THE PAYMENTS TO FOSTER PARENTS MAY ADEQUATELY REFLECT THE REAL AMOUNTS SPENT ON THE CARE OF FOSTER CHILDREN. (a) (s)

123. FOSTER HOME RATES MUST BE INCREASED TO COVER ACTUAL EXPENSES. (a)

124. FOSTER PARENTS MUST BE PROPERLY INSURED FOR DAMAGE DONE BY FOSTER CHILDREN TO THE FOSTER PARENTS' PROPERTY AND THE PROPERTY OF OTHERS. WE SUGGEST THE GOVERNMENT UNDERWRITE THESE POLICIES. (a)

BBB. COUNCIL RECOMMENDS A CONTINUING STUDY OF WHETHER FOSTER PARENTS SHOULD RECEIVE A SALARY. THERE ARE POLITICAL, ECONOMIC AND PRACTICAL ISSUES CONNECTED WITH THAT DECISION. (p) (a)

Council considered the suggestions for shared or sole guardianship by foster parents and some of this discussion may be found in the chapter on "Definitions". We felt it was important to reiterate in this chapter that the minister cannot really be a guardian and the person delegated must be able to carry out the duties of parent without constant reference to the social worker or the natural parents. On the other hand, certain aspects of the child's care are of wider concern and are less immediate in their impact. These should be considered by all the parties at meetings or in other communications.

125. FOSTER HOMES ARE ENTITLED TO SPEAK FOR AND GIVE CONSENT FOR MOST ORDINARY MEDICAL, EDUCATIONAL AND SOCIAL MATTERS. THE RESPONSIBILITY FOR THESE MAY BE SHARED BUT THE FOSTER HOME SHOULD HAVE PRIORITY OVER THE MINISTER OR NATURAL FAMILY UNLESS SPECIFICALLY PREVENTED BY COURT ORDER.

## CHAPTER XI

## STANDARDS AND EVALUATION

One matter which was touched on by many briefs and which bears on legislation, policies, practice and administration, is standards. Everyone wanted clear statements of objectives, clear plans and clear information on whether the objectives and plans have been achieved.

The Act is not clear on standards, although it has a section on regulations. In fact under Section 87 only regulations for group homes and institutions have been proclaimed and then in relation more to physical surroundings than overall objectives, quality of care and parenting and the ways in which the homes may be monitored.

Standards need to be applied at least to:

1. Any foster home
2. Any institution
3. Any group home or day care facility
4. Any other program used by the department for children
5. Staff training in government and non-government positions where children are involved
6. Staff selection

In addition to physical standards, the regulations should provide for specific knowledge and skills in the staff, outside monitoring of the standards and there should be appeal procedures possible for parents and guardians to assure themselves that optimal standard care is being delivered.

Various models were considered and the need for community validation was noted. Standards should be universal in that the same standards should apply to Department as to privately run facilities, programs and personnel. All have the responsibility of dealing with children in one way or another and it would be ludicrous to evolve a set of standards which would only apply to the Department of Social Services. Standards should be

applicable to all non-home placements used by children throughout the province and perhaps one day, throughout Canada. They should apply to hospitals, schools, residential facilities, camps or any other place where children spend more than a few days of their lives.

126. THAT UNIVERSAL STANDARDS BE DEVELOPED TO APPLY TO ALL PLACES OTHER THAN THEIR OWN HOMES, IN WHICH CHILDREN ARE CARED FOR. (p) (l)

127. THAT UNIVERSAL STANDARDS BE APPLIED AND MONITORED BY EACH GOVERNMENT DEVELOPMENT IN RELATION TO THE PROGRAMS OFFERED IN THE FACILITY OR PROGRAM. (p)

128. THAT FAILURE TO MEET THESE STANDARDS MAY BE DEALT WITH BY WITHDRAWAL OF THE RIGHT OF THAT FACILITY OR PROGRAM TO ACCEPT CHILDREN. (p) (a)

129. THAT SINCE WE ARE PROPOSING A SHIFT TO EARLY INTERVENTION AND SUPPORTIVE SERVICES, SOCIAL WORKERS AND OTHERS IN THE DEPARTMENT WILL NEED IMMEDIATE AND INTENSIVE RE-EDUCATION TO PREPARE THEM FOR THE ALTERED EMPHASIS. (a) (s)

130. THAT REGULATIONS AND POLICIES UNDER THE ACT MUST SPELL OUT THE OBJECTIVES, PHYSICAL AND PSYCHOLOGICAL STANDARDS REQUIRED OF ANY FACILITY OR PROGRAM USED BY THE DEPARTMENT IN PLANNING. (p) (l)

131. THAT FAILURE OF A PROGRAM TO MEET ALL THE STANDARDS SHALL NOT BE A SOLE REASON FOR REJECTING THAT PROGRAM. IF, FOR EXAMPLE, THE PSYCHOLOGICAL STANDARDS MEET OR EXCEED THE REQUIREMENTS, BUT THE PHYSICAL ONES DO NOT, A PROGRAM COULD BE ACCEPTED ON THE UNDERSTANDING THAT IT IMPROVE ITS STANDARDS.

132. THAT SOME FORM OF REWARD OR ACCREDITATION SHOULD ACCRUE TO A FACILITY OR PROGRAM PROVIDING QUALITY SERVICE. (a) (p)

133. THAT PREFERENCE IN PLACEMENT FOR PROGRAMMING OR PROTECTIVE CARE BE GIVEN TO THOSE FACILITIES MEETING ACCREDITATION STANDARDS. (p) (s)

134. THAT THE IDEAL FORM OF ACCREDITATION IS BY PEER EVALUATION AND WITH REPRESENTATION FROM THE DEPARTMENT. (a)

135. COUNCIL COMMENDS THE FOSTER PARENTS ASSOCICATION FOR DEVELOPING ACCREDITATION STANDARDS AND RECOMMENDS THE DEVELOPMENT OF A FOSTER HOME SELECTION AND REVIEW COMMITTEE FROM THE FOSTER PARENTS ASSOCATION TO MONITOR FOSTER CARE. (a)

The Department is evaluated as a whole by the Child Welfare League of America but the separate institutions such as Dale's House, Kilburn Hall, Boy's School are not.

136. FOSTER PARENTS SHOULD BE SELECTED ON SPECIFIC CRITERIA, BE EXPECTED TO ADHERE TO SPECIFIC STANDARDS AND BE ACCOUNTABLE FOR THEIR CARE OF CHILDREN. AS MENTIONED ABOVE, THEY MUST BE MONITORED EFFECTIVELY FOR ADHERENCE TO STANDARDS. (p) (a) (s)

137. COUNCIL COMMENDS RANCH EHRLO FOR DEVELOPING A PROGRAM OF ACCREDITATION IN ASSOCIATION WITH THE CHILD WELFARE LEAGUE OF AMERICA AND RECOMMENDS THAT DEPARTMENT OPERATED AND PRIVATE INSTITUTIONS USED BY THE DEPARTMENT IMPLEMENT AS A MATTER OF URGENCY THE SAME OR AN ESSENTIALLY SIMILAR PROGRAM. (p)

Council was concerned over the various cases of poor treatment described in the institutions and in foster homes used by the Department. Investigation into these publicly funded problem areas has not been adequate nor have the results been as widely available as they should have been. Council has no mandate to do such an investigation and was concerned that the institutions currently set up to do the investigations such as the Coroner's office have produced incomplete answers.

YYY COUNCIL RECOMMENDS A JUDICIAL INQUIRY INTO ALL CASES OF CHILD ABUSE AND/OR DEATH IN FOSTER HOMES OR WHILE THE CHILD WAS EITHER NOMINALLY OR ACTUALLY IN THE CARE OF AN INSTITUTION FOR PROTECTION. THIS INQUIRY SHOULD SPAN THE PAST FIVE YEARS AND SHOULD DEVELOP RECOMMENDATIONS ON METHODS TO ELIMINATE OR SUBSTANTIALLY REDUCE THE DAMAGE. (a)

One of the factors providing a brake on foster home abuses is effective communication between the fostered child and the supervising social worker. Effective communication presupposes adequate skills in the social worker, a reasonable frequency of social worker contact with the child alone and adequate supervision of the social worker. There are of course dangers of 'false' accusations by a child but if the child has reached this stage, continued care in that home may be contradicted anyhow.

138. COUNCIL RECOMMENDS THAT A CHILD WHO KNOWS AND UNDERSTANDS THE QUESTION ASKED SHOULD BE ABLE TO COMMENT ON THE CARE RECEIVED AND BE HEARD IN ALL MATTERS CONCERNING HIM OR HER. THE CHILD SHOULD GENERALLY BE PART OF THE EVALUATION PROCESS. (1) (p) (s)

139. ASIDE FROM THE REGULAR APPEAL PROCESS, COUNCIL RECOMMENDS THAT ALL PLACES HAVING CARE OF A CHILD PLACED BY THE MINISTER OR THE COURTS SHALL BE REVIEWED ANNUALLY. THE FAMILY GUARDIAN, SOCIAL WORKER AND CHILD SHOULD BE PRESENT FOR PARTS OF THIS REVIEW AND THE FAMILY GUARDIAN MUST BE SATISFIED THAT THE PLAN IS BEING EFFECTIVELY IMPLEMENTED. (p) (a)

140. THE FAMILY GUARDIAN SHALL CONDUCT A REVIEW AT ANY TIME IF REQUESTED BY THE CHILD. (1) (p)

141. THAT FAMILY GUARDIAN SHALL CONDUCT A REVIEW IF REQUESTED BY THE FAMILY OR THE PROGRAM OPERATOR. (1) (p)

142. SOCIAL WORKERS MUST SPEND TIME ALONE WITH EVERY CHILD THEY HAVE IN PROTECTIVE CARE AND KNOW AND UNDERSTAND THE CHILD'S WISHES AND CONCERNS. (s)

Council discussed the idea that present evaluation of foster homes is both sporadic and conducted in such a way that potential problems may be concealed from the social worker. The elements of the problems seemed to be that with current caseloads and with the idea that a child in foster care is "safe", follow-up is limited and a great deal of trust is invested in the foster parents. In most cases this trust appears to be justified. In some instances it could be dangerous.

With the practice of making a visit by prior arrangement, the family can cover up problems, threaten a child and make things seem as they are not. A casual unexpected visit was suggested by the foster parents themselves as well as in some individual presentations from ex wards.

143. THE DEPARTMENT SHOULD CONDUCT PILOT STUDIES WITH A NEW CONCEPT OF A "COMMUNITY VISITOR(S)". THE VISITOR(S) WOULD BE ALLOCATED FROM THE LOCAL COMMUNITY TO THE CHILD AND WOULD HAVE THE RIGHT TO "DROP IN" ON THE HOME, INSTITUTION OR PLACEMENT AT ANY TIME WITHOUT NOTICE, TO ASSURE THE SOCIAL WORKER, THE FAMILY GUARDIAN AND THE FAMILY ITSELF THAT THE CHILD IS RECEIVING APPROPRIATE CARE. (p) (a)

## CHAPTER XII

## ADOPTION

Many of the issues concerning substitute parenting have been addressed in earlier parts of the report in considering substitute families. There are two major areas in the supported adoption of children which should be considered. Children with long term physical handicaps lack 'adoptability' as do children whose natural parents cannot afford to keep all their children and who are reacting negatively to poverty. In such circumstances the logical approach is to assist the natural family to cope together. Practically, this is often impossible and a substitute must be found. It is important that this supported adoption does not deny either the need for substitute care nor the contact with the natural parents; culture or community.

Council was presented with a lengthy document late in the preparation process for this report and also received some briefs directly addressing adoption. However, we recognize that most of the material and public input on adoption was put forward in the recent past to the Adoption Task Force. It is that Task Force which was the basis for the Department of Social Services" discussion paper on Adoption.

The principal arguments concerned the need for adopted children to be able to find out about themselves and their natural parents from documents collected in the adoption agency. The concern of adopting parents was that this "finding out" should not happen too early in the child's life and result in a damaged relationship with both sets of parents to the ultimate detriment of the child.

Some evidence was presented of different approaches in different jurisdictions with the weight of evidence appearing to favor disclosure at around age 21 or extraordinarily, in confidence to a medical attendant, for justifiable medical reasons, at an earlier time. South Dakota was presented as an enlightened jurisdiction but they have no assistance available to the searching child.

From the point of view of a parent who "gave up" the child in the first place, we have received little evidence. The anecdotes are equivocal. Some people feel pleased to realize the child they had, so many years ago is alive and well.

Others do not want to be reminded of a difficult decision they were forced to make when they were so young. In all instances, it is a complex task to trace a set of parents from an address they may or may not have given twenty or more years ago.

Council was urged to reject the concept of private adoption or private adoption agencies because of the problems of control of standards in these situations. The present adoption process is working reasonably well except for special problems such as interracial adoption though even here the position is better than it might seem from anecdotal reports. Peyakowak was strongly of the opinion that adoption away from the culture was a 'bad' thing and was predicted on a lie - that, 'these people you call parents are your parents."

The idea they put forward seems to be that there should be open knowledge at all times about who and what the child's natural parents are. Indeed, because of skin color, this point comes out most strongly in interracial adoption. One should therefore be as open as possible from the beginning.

The second point made was that since children 'belong' to a racial group that they should be accessible to and returned to that group when they are old enough. A counter argument is put forward that the young child with all the problems and difficulties and attendant sacrifices it causes is sometimes abandoned by its parents but that they want to have it back when the child can do some work in adolescence.

Council in considering these matters felt that it should be possible for a child to find out about its parents, family and the culture from which it came. On the other hand, we recognized the problem that the adopting parents, as repeated in their brief to us, do not want to share the child with another set of parents. This is particularly so in the adolescent period when security of home and firm parenting stance is important for mental development. The alternative of permitting a child to find its parents if they are co-operative is current Department policy and assistance will be given to children where information is available and the natural parents are not opposed. It is important that greater sensitivity be shown in approaching the needs of adopted children and adoptive parents. For example, an adopted child, in active efforts to find the children, may discover for the first time that he or she was adopted when a contact is made by the social worker. It is also important that all concerned in the adoption process be issued with a complete up-to-date manual of services and policies currently existent.

144. WE WOULD RECOMMEND THAT THE DEPARTMENT ACTIVELY ASSIST TO FIND PARENTS BY ACTING AS INTERMEDIARY FOR SEARCHING ADOPTEES. (p)

145. WE WOULD RECOMMEND THAT THE DEPARTMENT ACTIVELY ASSIST TO FIND ADOPTED CHILDREN BY ACTING AS INTERMEDIARY FOR NATURAL PARENTS OR SIBLINGS.

146. COUNCIL RECOMMENDS A POLICY OF GIVING THE LAST KNOWN NAME AND ADDRESS OF NATURAL PARENTS WHO AGREE TO 21 YEAR OLDS OR OLDER WHO REQUEST THEM. (a) (p)

147. WE RECOMMEND THAT GENETRIC INFORMATION ON THE FAMILIES OF BOTH FATHER AND MOTHER BE CAREFULLY RECORDED AT THE TIME OF ADOPTION AND THIS BE MADE AVAILABLE ON REQUEST TO THE CHILD AND THE ADOPTING PARENTS, PREFERRABLY DURING THE EARLY TEEN YEARS. (p)

148. WE RECOMMEND THAT NATURAL PARENTS OR SIBLING BE ABLE TO ENTER INFORMATION WITH THE DEPARTMENT ABOUT THEMSELVES AT ANY TIME. (p) (a)

149. THAT IN ALL SECTIONS OF THE ACT PERTAINING TO ADOPTION, THE WORDS "ILLEGITIMATE" OR "LEGITIMIZE" BE REMOVED AND THAT REFERENCE INSTEAD BE MADE TO THE PARENTS' MARITAL STATUS. WE AGREE THAT AN ORDER SHOULD NOT INDICATE THIS TYPE OF INFORMATION. IT IS FOR THE NATURAL PARENTS TO DISCUSS THEIR MARRIAGE IF AND WHEN A RECONCILIATION IS ARRANGED. (l)

150. THE ACKNOWLEDGED NATURAL FATHER SHALL HAVE THE SAME RIGHTS IN THE MATTER OF CONCURRENCE WITH AN ADOPTION ORDER AS THE MOTHER, ASSUMING HE HAS AN "INTEREST" IN THE CHILD. THIS SHALL NOT BE A REASON FOR UNREASONABLE DELAY IN THE PROCEDURE OF ADOPTION SUCH THAT THE CHILD SUFFERS FROM UNCERTAINTY OF CARE. (l) (p)

151. COUNCIL CONCURS WITH THE PRINCIPLE OF NOT HAVING BABIES FOR SALE IN ANY FORM. (a) (p)

We recognize that private agencies, legal contracts for surrogate parents, new forms of adoption will repeatedly challenge the notion of monetary reward for services towards acquiring a baby. We see dangers in money and baby services and have concerns as stated. However, Council cannot make any profound statement because there were no briefs or papers which addressed the issue in depth. Further study would certainly be needed before any change in the current position were to be contemplated.

152. COUNCIL AGREES THAT PRIVATE ADOPTIONS AS ARRANGED BY NATIVE COMMUNITIES FROM TIME IMMEMORIAL SHALL CONTINUE TO RECEIVE THE FORCE OF LAW AND BE CONFIRMED ON REQUEST OF THE ADOPTING FAMILY AND OR ADOPTED CHILD. (p) (1)

Some of the adoption issues surrounding native children are addressed above (Recommendations 115, 117, 118, XXX) and range from consideration of these and a recent submission to Council, we have some further concerns. We note that the criteria for adoption of an AIM/REACH child are less strict than those for regular infant adoption. We do realize that in order to find homes for the more challenging children, different approaches may be required.

Recent information suggests an increased breakdown of AIR/REACH homes in the teen years and then no services are formally available to assist parents who have accepted the challenges to meet the crisis. This problem appears to merit review.

ZZZ COUNCIL RECOMMENDS REVIEW OF THE "REACH" PROGRAM - EXAMINING CRITERIA FOR ADOPTING PARENTS, SERVICES FOR ADOPTING AND NATURAL PARENTS DURING THE ADOPTION AND/OR SUBSEQUENT CRISES AND WITH SOME CONSIDERATION TO WHETHER NATURAL PARENTS SHOULD STAY INVOLVED WITH THESE CHILDREN. THE OBJECT WOULD BE TO DEVELOP THE BEST ENVIRONMENT FOR THESE CHILDREN.

# MINISTER'S ADVISORY COUNCIL ON CHILD PROTECTION

## List of Recommendations

## Minister's Advisory Council on Child Protection

### LIST OF RECOMMENDATIONS

1. COUNCIL ACCEPTS THAT ITS MANDATE IS VALID WITHIN THE PARAMETERS LAID DOWN BY THE MINISTER. WHERE RESEARCH OR MORE INVESTIGATION IS NEEDED INTO THE RELIABILITY OF STATEMENTS, THE REPORT NOTES THIS.

2. THAT THERE BE A STATEMENT OF PRINCIPLES AT THE BEGINNING OF THE ACT TO DEFINE PRIORITIES FOR ACTION, PRINCIPLES TO BE OBSERVED AND AN OVERALL DEFINITION OF WHAT THE ACT HOPES TO ACCOMPLISH.

3. THAT THE PRIMARY ROLE OF THIS ACT IS THE PRESERVATION OR DEVELOPMENT OF STABLE SOCIAL UNITS CALLED FAMILIES WHICH WOULD GENERALY BE THE NATURAL FAMILY WITHIN WHICH CHILDREN ARE PROTECTED AND ENCOURAGED TO REACH THEIR FULL POTENTIAL.

4. THAT THE ACT REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO AID FAMILY FUNCTIONING BY THE DEVELOPMENT, IN CONCERT WITH OTHER AGENCIES, OF PERSONAL AND COMMUNITY SERVICES TO MEET THE SOCIAL NEEDS OF FAMILIES.

5. THAT IN THOSE INSTANCES WHERE A FAMILY IS HAVING SUCH PROBLEMS IN FUNCTIONING THAT THE CHILD'S SECURITY OR WELL-BEING IS SERIOUSLY COMPROMISED AND WHERE NO ALTERNATIVE POSSIBILITY EXISTS, THE DEPARTMENT OF SOCIAL SERVICES BE EMPOWERED TO TAKE IMMEDIATE ACTION TO ENSURE THE SAFETY OF THE CHILD.

6. THAT WHERE THE DEPARTMENT OF SOCIAL SERVICES TAKES ACTION UNDER #5 ABOVE, ONLY THOSE FAMILIAL RIGHTS NEEDED TO ASSURE THE CHILD'S SAFETY OR WELL-BEING BE COMPROMISED.

7. THAT ANY ACTION UNDER #5 ABOVE BE SUBJECT TO IMMEDIATE INDEPENDENT REVIEW.

8. THAT THE PRINCIPLE OF MOST RAPID RESOLUTION IS PARTICULARLY IMPORTANT FOR YOUNG CHILDREN.

9. THAT DESPITE TRANSFER OF CHILDREN TO ANOTHER FAMILY, PRESERVATION FOR THOSE CHILDREN OF CONTINUITY IN BROTHER-SISTER RELATIONSHIPS, CULTURE, RELIGION, EDUCATION AND LEISURE ACTIVITIES TO THE MAXIMUM EXTENT POSSIBLE IS IMPORTANT.

10. THAT FOLLOWING TRANSFER TO ANOTHER FAMILY, EVERY EFFORT BE MADE TO RESTRUCTURE THE NATURAL FAMILY AND PERMIT RESOLUTION OF THE ORIGINAL DIFFICULTIES.

11. THAT THE TIME IN THE SUBSTITUTE FAMILY BE STRICTLY LIMITED BEARING IN MIND THE CHILD'S AGE. EITHER THE CHILD BE RETURNED TO ITS NATURAL FAMILY OR PLACED PERMANENTLY WITH, IDEALLY, THE SUBSTITUTE FAMILY OR ANOTHER FAMILY ACCEPTABLE IN GENERAL TERMS TO THE DEPARTMENT AND THE NATURAL FAMILY.

12. THAT EVEN IF PLACED PERMANENTLY, THERE BE PRESERVED FOR THE CHILD AS MUCH KNOWLEDGE OF AND CONTACT WITH THE NATURAL FAMILY AS CONSISTENT WITH THE CHILD'S INTERESTS.

13. THAT FAMILIES SHALL HAVE THE RIGHT TO A JUDICIAL HEARING ON THE PLANS FOR AND PROGRESS OF THEIR CHILDREN AND SHALL HAVE THE RIGHT TO PUT FORWARD ALTERNATIVE PLANS FOR CONSIDERATION.

14. THAT AS CHILDREN REQUIRE CONSISTENCY AND CONTINUITY, THE SOCIAL WORKER WORKING WITH THE FAMILY SHALL BE, AS FAR AS POSSIBLE, THE SAME PERSON FOR THE DURATION OF THE CHILD'S TRANSFER TO ANOTHER FAMILY.

15. COUNCIL RECOMMENDS THAT THE AGE LIMIT COVERED BY THE FAMILY SERVICES ACT BE INCREASED SO THAT "CHILD" MEANS A BOY OR GIRL ACTUALLY OR APPARENTLY UNDER THE AGE OF 18 YEARS.

16. THAT CONSIDERATION BE GIVEN TO ESTABLISHING SPECIAL YOUNG PERSONS' PROGRAMS TO DEAL WITH THE EMANCIPATED CHILD.

17. THAT SOME PRIORITY BE ALLOCATED TO THE 14-18 AGE RANGE AS THE PROBLEMS CURRENTLY BEING SEEN WILL OTHERWISE RESULT IN CONSIDERABLE ADULT SOCIAL DISORIENTATION AND NEW GENERATIONS OF CHILD NEGLECT AND ABUSE.

18. THAT THOSE PERSONS WHO ARE IN NEED OF SERVICES BE SERVED. A FORM OF GUARDIANSHIP SHOULD EXIST FOR THOSE WHO STILL NEED SERVICES AND ARE BEYOND THE AGE OF 18 YEARS.

19. THAT A "FOSTER HOME" MEANS A HOME WHICH MEETS STANDARDS OF CARE ACCEPTABLE TO THE DIRECTOR FOR A CHILD IN NEED OF A SUBSTITUTE FAMILY.

20. THAT THE DEPARTMENT OF SOCIAL SERVICES, USING THE EQUIVALENT OF SECTION 5(2) OF THE CURRENT FAMILY SERVICES ACT, ASSIST THE FOSTER PARENTS ASSOCIATION TO DEVELOP ACCEPTABLE STANDARDS FOR THE SELECTION AND CONTINUING APPROVAL OF FOSTER HOMES AND FOSTER PARENTS.

21. THAT FOSTER PARENTS BE RECOMPENSED FOR ALL REASONABLE OUT-OF-POCKET EXPENSES INCURRED IN THE CARE OF A CHILD IN THE CARE OF THE MINISTER USING, FOR EXAMPLE, A COMPENSATION SCHEDULE SIMILAR TO THAT DEVELOPED BY THE DEPARTMENT OF CONSUMER AFFAIRS.

22. THAT AT THE TIME OF PLACEMENT OF A CHILD, A CLEAR AGREEMENT BETWEEN THE NATURAL PARENTS, THE MINISTER AND THE FOSTER PARENTS BE DEVELOPED. THIS AGREEMENT TO SPECIFY IN WHAT RESPECTS THE FOSTER PARENTS MAY ACT AS PARENTS AND IN WHICH AREAS THE NATURAL PARENTS ARE RESTRICTED.

23. THAT FOSTER PARENTS THROUGH AN EVALUATION DEVELOPED THROUGH AN INDEPENDENT ASSOCIATION AND APPROVED BY THE DIRECTOR BE AUTHORIZED TO ACT AS PARENT AIDES OR PARENT MODELS TO ASSIST NATURAL PARENTS WITH THE SKILLS OF PARENTS.

24. THAT THE TERM "PARENT" BE REDEFINED TO INCLUDE THE ACKNOWLEDGED OR PROVEN BIOLOGICAL PARENTS WITH A SIGNIFICANT RELATIONSHIP WITH THE CHILD, ALSO THE DE FACTO PARENTS SUCH AS A COMMON-LAW HUSBAND OR WIFE OF A BIOLOGICAL PARENT.

25. ALL PARENTS MUST BE NOTIFIED OF A HEARING UNDER THE ACT.

26. THAT IF CURRENT LEGISLATION IS RETAINED, THEN DELETE SECTIONS 2(m)(ii) AND 2(m)(iv) AND 52(1)(c) AND (d). IF NEW LEGISLATION IS WRITTEN, PARENTS BE DEFINED WITHOUT REFERENCE TO THE IDEAS EXPRESSED IN THOSE SECTIONS.

27. ADD SECTIONS TO PROTECT THE PARENTAL RIGHTS OF THE ACKNOWLEDGED BIOLOGICAL FATHER AND ANY OTHER DE FACTO PARENT IN ANY FORM OF SUBSTITUTE FAMILY.

28. THAT THE TERM "SOCIAL WORKER" BE USED INSTEAD OF "OFFICER" WHEREVER THAT TERM APPLIES IN THE ACT.

29. THAT A "SOCIAL WORKER" IS A PROFESSIONALLY TRAINED PERSON, QUALIFYING FROM AN ACCREDITED SCHOOL OF SOCIAL WORK AND PRACTICING UNDER THE CODE OF ETHICS OF THE CANADIAN ASSOCIATION OF SOCIAL WORKERS AND IN THE EMPLOY OF THE DEPARTMENT OF SOCIAL SERVICES.

30. THAT STANDARDS OF TRAINING AND PRACTICE FOR SOCIAL WORKERS BE CONTINUALLY IMPROVED WITHIN THE DEPARTMENT SUCH THAT THE LATEST RESEARCH AND PRACTICAL KNOWLEDGE IS AVAILABLE TO THE PEOPLE OF SASKATCHEWAN.

31. THAT A PROMOTION PROGRAM IN TERMS OF SENIORITY, SKILLS AND WILLINGNESS TO WORK IN MORE CHALLENGING SITUATIONS BE DEVELOPED.

32. THAT CASELOAD STANDARDS BE DEVELOPED AND ADHERED TO SUCH THAT SOCIAL WORKERS ARE NOT OVERBURDENED AND, MOST IMPORTANTLY, THAT CASE-LOSING BE STUDIED AND IMPLEMENTED TO ENSURE THAT ONLY THOSE CASES ACTUALLY NEEDING DEPARTMENT OF SOCIAL SERVICES RESOURCES AND SKILLS RECEIVE THEM.

33. THAT INCREASED RESPONSIBILITY AND ACCOUNTABILITY BE A PART OF THE SOCIAL WORKERS' ROLES.

34. THAT CERTAIN CASELOADS BE DESIGNATED FOR SOCIAL WORKERS AND CONSIDERED AS MORE DEMANDING AND THEREFORE TO BE REWARDED MORE IN TERMS EITHER OF INCREASED SALARY OR SENIORITY. WE DO NOT RECOMMEND THE PLACEMENT OF JUNIOR STAFF IN UNSUPPORTED SITUATIONS.

35. THAT THE TERM "COMMUNITY" BE DEFINED AS 'A LIMITED GROUP OF PERSONS WHO HAVE UNDERTAKEN SOME FORM OF JOINT SOCIAL RESPONSIBILITY.'

36. THAT THE COMMUNITY OF WHICH A FAMILY IN NEED OF SERVICES IS A PART SHALL BE ENTITLED TO BE HEARD IN ANY PROCEEDING CONCERNING THAT FAMILY IF THE FAMILY CONSENTS.

37. THAT THERE SHALL BE AN INITIAL EXPECTATION OF A COMMUNITY OF WHICH A FAMILY IN NEED OF SERVICES IS A PART TO ASSIST THE FAMILY IN DEVELOPING ALTERNATIVE PLANS FOR THE FUTURE OF THE FAMILY.

38. THAT WHEN ALTERNATIVE LIVING PLANS FOR A CHILD ARE BEING CONSIDERED, THE EXTENDED FAMILY, ESPECIALLY IN THE NATIVE COMMUNITY, BE GIVEN FIRST CONSIDERATION.

39. THAT IN CONSIDERING THE EXTENDED FAMILY, SOCIAL WORKERS NOTE THE POSSIBILITY OF CYCLICAL INTERGENERATIONAL FAMILY PROBLEMS WHICH MAY BE AWAKENED AS A RESULT OF PLACEMENT.

40. THAT A FAMILY GUARDIAN BE CREATED THROUGH THE OFFICIAL GUARDIAN. THE FAMILY GUARDIAN WOULD MEDIATE BETWEEN THE PARENTS AND THE SOCIAL WORKER TO ASSIST IN FINDING AN ACCEPTABLE PLAN TO BOTH PARTIES. SUCH A FAMILY GUARDIAN MUST POSSESS A GOOD DEAL OF KNOWLEDGE OF RESOURCES AND BE ABLE TO INTERPRET THESE TO THE PARTIES. THE GUARDIAN IS NOT AN ADVOCATE.

41. THAT PARENTS WOULD HAVE THE OPTION TO APPLY TO THE COURTS RATHER THAN DEAL WITH THE FAMILY GUARDIAN.

42. THAT THE FAMILY GUARDIAN COULD NOT COMPEL EITHER PARENTS OR DEPARTMENT OF SOCIAL SERVICES TO ADOPT A PARTICULAR SOLUTION. THIS COULD ONLY BE DONE IN COURT.

43. THAT DISCUSSIONS WITH THE FAMILY GUARDIAN SHOULD NOT BE ADMISSABLE AS EVIDENCE IN COURT, BUT THE DETERMINATION OF THE FAMILY SESSION COULD.

44. THAT THE FAMILY SERVICES ACT IN DEFINING A "CHILD IN NEED OF PROTECTION" OR "PROTECTIVE SERVICES", FOLLOW THE LEAD OF THE ONTARIO LEGISLATION AND ATTEMPT SPECIFIC DEFINITIONS.

45. THAT A CHILD IN NEED OF PROTECTIVE CARE BE SEPARATELY DEFINED.

46. THAT INCLUDED AMONG THE DEFINITIONS FOR THE PROVISION OF PROTECTIVE SERVICES BE THAT IN ADDITION TO THE GENERALLY ACCEPTED REASONS, THE FOLLOWING BE ADDED:
    A. DRUG AND ALCOHOL PROBLEMS
    B. ADOLESCENT RUNNING FROM HOME
    C. PREGNANCY OR VENEREAL DISEASE IN A CHILD
    D. CONDUCT BY THE CHILD WHICH IS PREJUDICAL TO ITS OWN WELL-BEING
    E. WHERE PARENTS ALONE CANNOT HELP THEIR CHILDREN DEAL WITH THE PROBLEMS
    F. FAMILIES IN HIGH STRESS SITUATIONS PERHAPS DUE TO ILLNESS OR TO A CHILD'S SPECIAL NEEDS.

47. THAT PROTECTIVE SERVICES DO NOT IMPLY THAT SOCIAL WORKERS ARE EXPERT IN TREATMENT BUT THAT WHERE EITHER EDUCATIONAL OR HEALTH NEEDS ARE NOT BEING MET, CLOSE INTERDEPARTMENTAL LIAISON WOULD TAKE PLACE.

48. THAT IF THE ONTARIO SUGGESTIONS ARE ADOPTED MORE OR LESS INTACT, A DEFINITION OF SEXUAL ABUSE WOULD BE REQUIRED AND FOR THESE PURPOSES, THE ALBERTA DEFINITION: "A CHILD IS SEXUALLY ABUSED IF EXPOSED OR SUBJECTED TO SEXUAL CONTACT, ACTIVITY OR BEHAVIOR

THAT IS INAPPROPRIATE TO THE CHILD'S AGE, EXPERIENCE OR EMOTIONAL OR PHYSICAL DEVELOPMENT" IS SATISFACTORY.

49. THAT ANY NEW LEGISLATION SHALL INCLUDE SECTIONS EQUIVALENT TO SECTIONS 5 THROUGH 7 OF THE CURRENT ACT FOR THE WORD "...MAY", THE WORD "..SHALL.." THIS WILL DIRECT THE MINISTER TO CHANNEL FUNDS APPROPRIATELY.

50. THAT THE MINISTER SHALL CONTRACT WITH GROUPS AND ORGANIZATIONS WITHIN LOCAL COMMUNITIES TO SUPPLY THOSE PROGRAMS AND SERVICES MENTIONED IN THE TEXT ABOVE AS A MINIMUM TOWARDS MEETING THE "PROTECTIVE SERVICES" THRUST.

51. THAT ONGOING PROGRAMS AND SERVICES IDENTIFIED AS MEETING THE REQUIREMENTS OF THE MINISTER BE SEPARATELY IDENTIFIED IN POLICY OR REGULATIONS AND INCLUDE PROCEDURES FOR EVALUATION, LIMITS OF ACCEPTABLE SERVICES AND FUNDING.

52. THAT PARENTS BE ENCOURAGED TO PAY FOR SOME OF THESE SERVICES AND PROGRAMS AS THEY ARE THE JOINT PLANS OF THE DEPARTMENT OF SOCIAL SERVICES AND PARENTS. THIS REQUIREMENT WILL GUARANTEE SOME CONTROL FOR THE PARENTS AND CAN ONLY BE EFFECTIVE IF THE PARENTS HAVE THE ABILITY TO PAY.

53. THAT IN ALL PLANNING FOR SERVICES, THE PARENTAL WISHES BE CONSIDERED ESPECIALLY THOSE PERTAINING TO CULTURAL AND RELIGIOUS VALUES.

54. THAT IS AN EARLY INTERVENTION OR SERVICE CALLS FOR THE DEPARTMENT OF SOCIAL SERVICES TO ASSUME SOME PARENTING FUNCTIONS, THE REMAINDER STAY WITH THE PARENTS.

55. THAT IN PRESENTING EARLY INTERVENTION PLANS TO PARENTS, THE DEPARTMENT OF SOCIAL SERVICES OFFER CHOICES WHEREVER POSSIBLE AND ALSO STATE CONSEQUENCES FOR NON-COMPLIANCE OF THE FAMILY WITH THE PLANS.

56. THAT ALL AGREEMENTS SHOULD BE CAREFULLY DRAWN, INDIVIDUALIZED CONTRACTS BETWEEN THE DEPARTMENT AND THE PARENTS.

57. THAT WHERE A CHILD CAN EXPRESS AN OPINION ABOUT PLANS FOR THE FAMILY AND ESPECIALLY ABOUT THOSE WHICH CONCERN HIM, THE CHILD MUST BE A PARTY TO THE DISCUSSIONS AND IF ABLE TO KNOW AND UNDERSTAND THE NATURE OF THE MATTER, A SIGNATORY TO THE CONTRACT.

58. THAT WHERE IN THESE PLANS THERE ARE UNRESOLVED CONFLICTS OVER WHAT IS IN THE CHILD'S INTEREST, AT THE REQUEST OF THE FAMILY GUARDIAN OR THE JUDGE AN ADVOCATE FOR THE CHILD BE APPOINTED. WHERE FEASIBLE, COSTS TO BE ALLOCATED TO THE DISSENTING PARTIES.

59. THAT THE LAW SOCIETY DEVELOP A LIST OF LAWYERS PREPARED TO ACT ON BEHALF OF THE CHILD AND THAT THE FAMILY GUARDIAN AND JUDGE BE SATISFIED WITH THE SPECIAL KNOWLEDGE REQUIRED TO FULFILL THIS ROLE.

60. CONTRACTS MADE BETWEEN THE MINISTER AND PARENTS AND CHILDREN SHALL BE DRAWN FOR THE EXPECTED PERIOD OF SERVICE DELIVERY, NOT ON A ONE YEAR BASIS. CHILDREN DO NOT RENEW THEIR FAMILIES YEARLY.

61. THAT A "CHILD IN NEED OF PROTECTIVE CARE" BE DEFINED AS:

    A. AN ABANDONED, LOST OR ORPHANED CHILD WHO HAS NO OTHER PERSON WILLING TO ACT AS GUARDIAN

B. A CHILD IN IMMEDIATE NEED OF RELIEF FROM PHYSICAL, SEXUAL OR EMOTIONAL ASSAULT WHERE THE PARENTS CANNOT OR WILL NOT PROVIDE THIS.

C. A CHILD AT SERIOUS RISK FOR IMMINENT DANGER FROM WHICH THE GUARDIANS WILL NOT OR CANNOT PROTECT HIM.

D. A CHILD OR YOUNG PERSON DEMONSTRATING A SERIOUS RISK TO HIS OR HER OWN PERSON WHERE THE GUARDIANS ARE EITHER UNABLE OR UNWILLING TO PROVIDE A SAFE HOME.

62. THAT "PROTECTIVE CARE" CONTEMPLATES INVOLVEMENT OF A SUBSTITUTE FAMILY UNLESS THE PROJECTED STAY IN CARE IS TO BE LESS THAN THREE DAYS.

63. THAT FOR A PROJECTED STAY OF UP TO THREE DAYS, THE FOLLOWING FACILITIES MAY BE USED IN THE EVENT A SUBSTITUTE FAMILY IS UNAVAILABLE:

A. A FACILITY APPROVED BY THE DIRECTOR UNDER THIS ACT.

B. A PLACE OFFERING TREATMENT FOR PHYSICAL OR EMOTIONAL DAMAGE.

C. A CRISIS FACILITY OFFERING QUALITY CARE AND PARENTAL INVOLVEMENT WHERE APPROPRIATE AND MEETING THE STANDARDS OF CARE AS SET OUT IN THE POLICIES OR REGULATIONS UNDER THIS ACT.

D. SUCH OTHER FACILITIES AS MAY BE DEVELOPED AND WHICH FALL UNDER THE STANDARDS APPROVED IN THE ACT.

64. THAT FOR A PROJECTED STAY IN CARE OF MORE THAN THREE DAYS, A CHILD MUST BE PLACED IN A SUBSTITUTE FAMILY. THIS FAMILY SHOULD IDEALLY BE AVAILABLE TO CONTINUE CARE ON A LONG TERM BASIS SHOULD THE COURT OR PLANNING MEETINGS DECIDE.

65. THAT CERTAIN OTHER FACILITIES MAY BE USED FOR PROTECTIVE CARE BUT IN THAT EVENT, THE CHILD SHOULD HAVE A SUBSTITUTE FAMILY IN ADDITION TO THE MINISTER. THESE FACILITIES MUST MEET THE CRITERIA SET OUT IN POLICIES OR REGULATIONS UNDER THE ACT.

66. THAT THE MINISTER OR HIS DELEGATE IS RESPONSIBLE FOR ENSURING THE CHILD'S SATISFACTORY CARE IN A THREE DAY FACILITY, AND THAT EVEN IN THIS SHORT TERM CARE, AS MUCH PARENTAL ACCESS AND CONTROL BE AVAILABLE AS IS CONSISTENT WITH THE CHILD'S SAFETY AND WELL-BEING.

67. THAT THE MINISTER AND PARENTS MAY SHARE IN THE RESPONSIBILITY FOR THE SATISFACTORY CARE OF A CHILD IN LONGER THAN THREE DAY FACILITIES. THIS SHARING WILL BE APPORTIONED BY CONTRACT OR COURT ORDER.

68. THE RULES FOR ACCESSING SHORT TERM PROTECTIVE CARE ARE:

A. DIRECT PLACEMENT BY THE PARENTS (FEES BY PARENTS)
B. PLACEMENT BY MINISTER WITH PARENTAL AGREEMENT (FEES SHARED).
C. PLACEMENT BY THE MINISTER WITHOUT PARENTAL CONSENT (FEES PAID BY THE DEPARTMENT OF SOCIAL SERVICES).
D. PLACEMENT BY THE COURT (FEES PAID BY CONTRACT).

69. REPORTS SHALL BE CONFIDENTIAL TO THE DEPARTMENT OF SOCIAL SERVICES.

70. THOSE REPORTING MUST BE TOLD THAT THEY MAY BE EXPECTED TO GIVE EVIDENCE ON THE MATTER IN THE EVENT OF A HEARING.

71 A PENALTY BE ESTABLISHED FOR FAILURE TO REPORT A CHILD SUSPECTED TO BE IN NEED OF PROTECTIVE SERVICES OR CARE IN THE AMOUNT OF UP TO $1,000. (THE AMOUNT WOULD ORDINARILY BE GREATER FOR A HEALTH, SOCIAL WORKER OR EDUCAIONAL PROFESSIONAL WHO WOULD BE EXPECTED TO RECOGNIZE THE INDICATORS AS PART OF HIS OR HER PROFESSIONAL EXPERTISE). THE NAME OF THE PROFESSIONAL INVOLVED MAY BE GIVEN TO THE APPROPRIATE PROFESSIONAL ORGANIZATION OF THAT PERSON.

72. A PENALTY BE ESTABLISHED FOR MALICIOUS AND FALSE REPORTING AS DEFINED IN SECTION 16 OF THE CURRENT ACT IN THE AMOUNT OF UP TO $1,000. (IN THE EVENT THAT A REPORT IS FOUND TO BE FALSE AND IS SUSPECTED BY THE SOCIAL WORKER TO BE MALICIOUS, THE NAME OF THE REPORTER SHALL BE RELEASED TO THE POLICE FOR FURTHER LEGAL ACTION).

73. REPORTS SHOULD STATE A DEGREE OF URGENCY. INITIAL INVESTIGATION MUST BE COMPLETE BY TEN DAYS FROM THE DATE OF THE REPORT.

74. A SECTION SIMILAR TO 16(4) IS NOT CONSISTENT WITH THE DEFINITION OF A CHILD IN NEED OF PROTECTION AND SHOULD NOT BE INCLUDED.

75. A SUBSECTION WOULD BE NEEDED TO EMPOWER THE DEPARTMENT TO TAKE ACTION ON BEHALF OF A CHILD IN NEED OF PROTECTIVE SERVICES OR PROTECTIVE CARE.

76. SECTION 17 OF THE CURRENT ACT IS NOT NEEDED UNDER THE GENERAL PROVISION OF PROTECTIVE SERVICES IN THE REVISED VERSION.

77. IN PLACE OF SECTION 21 (FAMILY SERVICES ACT, 1973) A DATE FOR A SHOW CAUSE HEARING BE GIVEN TO THE FAMILY AT THE TIME OF APPREHENSION OR AS SOON AFTER AS IS PRACTICABLE. THIS HEARING IS TO BE WITHIN THREE WORKING DAYS OF THE APPREHENSION. NOTICE OF HEARING SHOULD STATE THE RIGHT OF THE PARENTS TO BRING WITH THEM ANY OTHER INTERESTED PARTIES.

78. THE "SHOW CAUSE" HEARING SHALL:
   A. DETERMINE THE APPROPRIATENESS OF THE APPREHENSION.
   B. SET A DATE FOR A CHILD PROTECTION HEARING BETWEEN THREE AND FOUR WEEKS LATER.

79. AT A "SHOW CAUSE" HEARING, THE JUDGE MAY:
   A. RETURN THE CHILD TO ITS PARENTS WITH NO STIPULATION.
   B. RETURN THE CHILD TO PARENTS WITH STIPULATIONS
   C. CONTINUE THE APPREHENSION IN A SUBSTITUTE FAMILY APPROVED BY THE DEPARTMENT AND, IF POSSIBLE, BY THE PARENTS ALSO.
   D. STIPULATE CONDITIONS OF INTERIM ACCESS AND CUSTODY FOR THE PARENTS WHILE THE CHILD IS IN CARE.
   E. RETURN THE CHILD TO A SUFFICIENTLY INTERESTED OTHER PERSON WITH OR WITHOUT CONDITIONS.
   F. THE CUSTODY OF THE CHILD SHALL NOT BE USED AS A THREAT TO COMPEL COMPLIANCE.

80. THAT FAILURE TO COMPLY WITH CONDITIONS SHALL CONSTITUTE AN OFFENCE UNDER THE ACT.

81. THAT A PROVINCIAL COURT JUDGE BE EMPOWERED TO REMOVE A PERSON EVEN FROM HIS OWN HOME.

82. THAT THE COURT PROCESS PARALLEL THE PROCESS OF DETERMINING THE NEED FOR AND SUPPLY OF PROTECTIVE SERVICES AND PROTECTIVE CARE.

83. THAT PARENTS OR GUARDIANS MAY HAVE RECOURSE TO THE COURTS AT ANY TIME IN THE PROTECTION PROCESS AND THAT THEY MAY HAVE ANY PARTY WITH AN INTEREST IN THE MATTER HEARD IN COURT WITH THEM.

84. THAT THE PARENTS IN APPLYING TO THE COURT SHOULD PLACE BEFORE THE COURT A PLAN FOR THEIR CHILD AND ITS FUTURE. THE JUDGE WOULD BE OBLIGED TO CONSIDER THE PLANS OF BOTH PARENTS AND THE SOCIAL WORKER IN DETERMINING THE MORE SUITABLE OF THE TWO OR POSSIBLE COMBINATION OF ELEMENTS OF EACH.

85. THAT THE COURTS NEED SOME MECHANISM TO DEAL WITH A GUARDIAN WHO HAS CAUSED PHYSICAL, SEXUAL OR EMOTIONAL HARM TO A CHILD. THE OFFENDING PARENT OR GUARDIAN WILL NEED SOME FORM OF CONTROL EITHER IN RESTRAINING FROM FURTHER HARM, OR SECURING NEEDED TREATMENT.

86. THAT, EXCEPT IN CASES OF PERMANENT ORDERS OF COMMITTAL, A MAXIMUM TIME OF 12 MONTHS IN PROTECTIVE CARE BE SET, FROM THE TIME THE CHILD IS TAKEN INTO CARE.

87. THAT A CHILD PROTECTION HEARING BE CONCLUDED WITHIN EIGHT WEEKS OF A PLANNED APPREHENSION OR OF A "SHOW CAUSE" HEARING. OR WITHIN SEVEN DAYS OF AN APPLICATION.

88. THAT THE COURT IN A CHILD PROTECTION HEARINC MAY:
    A. CONSIDER PLANS MADE BETWEEN THE PARENTS
    B. RETURN THE MATTER TO THE MEDIATION PROCESS
    C. MAKE ORDERS AS IN A "SHOW CAUSE" HEARING
    D. STIPULATE LENGTHS OF TIME FOR DIFFERENT PARTS OF A PLAN FOR THE FAMILY
    E. CAN DETERMINE MATTERS OF CUSTODY AS BETWEEN PARENTS, GUARDIANS AND OTHER PARTIES

F. MAKE AN ORDER FOR THE CHILD TO BE IN PERMANENT CARE OF THE MINISTER.

89. THAT AN APPLICATION FOR A HEARING MAY BE MADE AT ANY STAGE OF THE CHILD PROTECTION PROCESS BY THE PARENT OR GUARDIAN OF A CHILD OR BY THE FAMILY GUARDIAN.

90. APPLICATIONS FOR A CHILD PROTECTION HEARING MUST STATE THAT THE APPLICATION IS FOR:
   A. PROTECTIVE SERVICES OR
   B. PROTECTIVE CARE.

91. THAT THE FAMILY SERVICES ACT TAKE PRECEDENCE OVER ALL OTHER ACTS IN THE DETERMINATION OF A CHILD'S FUTURE. ONE WAY OF DOING THIS WOULD BE THAT THE INFANTS ACT BE AMENDED TO PROVIDE THAT IN THE EVENT OF AN APPLICATION BEING BROUGHT UNDER THE INFANTS ACT FOR CUSTODY OF A CHILD WHO IS THE SUBJECT OF A PENDING OR ONGOING PROTECTION HEARING UNDER THE FAMILY SERVICES ACT, THAT THE TWO APPLICATIONS WILL MERGE AND BE HEARD TOGETHER, AND THAT THE COURT HEARING SUCH APPLICATIONS BE EMPOWERED TO MAKE THE SAME ORDERS AS A JUDGE ACTING UNDER THE FAMILY SERVICES ACT.

92. THAT AT A CHILD PROTECTION HEARING, THOSE NOTIFIED WITH A RIGHT TO APPEAR AND BE HEARD SHOULD BE:
   A. THE PARENTS OR GUARDIANS
   B. THE MINISTER BY HIS REPRESENTATIVES (SOCIAL WORKERS, SUPERVISOR)
   C. THE CHILD IN QUESTION IF OLD ENOUGH TO UNDERSTAND WHAT IS BEING CONSIDERED
   D. THE SUBSTITUTE PARENTS
   E. THE APPROPRIATE INDIAN BAND OFFICE

93. IT IS RECOMMENDED THAT A PROVISION BE MADE ENTITLING ANY PERSON TO BE PRESENT WHERE THE PARENT OR GUARDIAN OR THE CHILD REQUESTS.

94. THE SPECIFIC RESPONSIBILITIES OF PARENTS IN RELATION TO CHILDREN MUST BE DETAILED AND RESPECTED. THE RELATIVE ALLOCATION OF THESE TO THE PARENTS AFTER A NEED FOR PROTECTION SERVICES OR CARE HAD BEEN ESTABLISHED, IS AN IMPORTANT TASK FOR THE JUDGE.

95. THAT THE COURT MUST DETERMINE:
   A. IF THE CHILD IS IN NEED OF PROTECTIVE SERVICES OR PROTECTIVE CARE AND
   B. WHAT SHOULD BE THE PLAN FOR THE CHILD AND FAMILY, GIVEN THE OPTIONS PLACED BEFORE HIM.

96. THAT SOCIAL SERVICES FILES SHOULD BE OPEN TO FAMILIES EXCEPT FOR THE NAME OF THE REPORTER WHO LAID INFORMATION ABOUT THE FAMILY. THE MINISTER COULD APPLY TO THE COURT TO EXCLUDE INFORMATION THOUGHT TO BE DAMAGING FOR THE PARENTS TO KNOW.

97. THAT THE COURT COULD SET A REVIEW DATE TO SEE HOW THE PLANS HAD MATURED AND/OR DECIDE ON THE NEED FOR FURTHER ACTION.

98. COUNCIL RECOMMENDS THAT CONTINUED EFFORTS TOWARDS AN EFFICIENT MANAGEMENT SYSTEM BE ENCOURAGED, ESPECIALLY THOSE EFFORTS TO INCREASE THE PROPORTION OF SOCIAL WORK AS OPPOSED TO PAPER WORK.

99. THAT CLEARLY WRITTEN POLICY DOCUMENTS AND PUBLICLY AVAILABLE BROCHURES SPELL OUT THE SPECIFIC HELP THAT CAN BE OBTAINED FROM THE DEPARTMENT BY PEOPLE IN DIFFERENT SITUATIONS.

100. THAT IT IS PART OF THE SOCIAL WORK FUNCTION TO CONFRONT A PERSON WHO IS HAVING TROUBLE IN SELF-MOTIVATION AND IN SELF-CONTROL. THIS AUTHORITARIAN POSITION IS AN INEVITABLE PART OF THE JOB AND SPLITTING THE FUNCTION BY HAVING A LAWYER DO ONE AND A COUNSELLOR DO ANOTHER IS NOT CONDUCIVE TO AN INTEGRATED RESULT.

101. WITHOUT PREJUDICING THE INTRODUCTION OF A LAWYER OR CONTRACTED COUNSELLOR, COUNCIL RECOMMENDS THAT SOCIAL WORKERS UNDERTAKE TO COUNSEL AND CONFRONT.

102. THAT THERE BE A REGULAR OFFICIAL INFORMATION EXCHANGE BETWEEN THE DEPARTMENT OF SOCIAL SERVICES AND THE PUBLIC.

103. THAT THE IMAGE OF SOCIAL WORKERS AND THE POSITIVE ASPECTS OF THE WORK OF THE DEPARTMENT OF SOCIAL SERVICES ARE IN NEED OF IMPROVEMENT. A PUBLIC RELATIONS CAMPAIGN IS REQUIRED AND SHOULD BE DEVELOPED.

104. THAT THE FACULTY OF SOCIAL WORK BE ACTIVELY RECRUITED AS INDEPENDENT ASSESSORS OF DEPARTMENTAL FUNCTION. THE DEPARTMENT OF SOCIAL SERVICES SHOULD MAKE A SPECIFIC REQUEST AND SUPPLY THE NEEDED STATISTICS, FILES AND PERSONNEL.

105. CERTAIN ISSUES IN SOCIAL WORK PRACTICE CANNOT BE COVERED BY THIS REPORT BUT ARE A CONTINUING CONCERN OF THE PUBLIC. IT IS IMPORTANT THAT A HIGH STANDARD OF TRAINING AND OF CONTINUED UPDATING OF KNOWLEDGE BE PRACTISED BY SOCIAL WORKERS. FUNDING IS REQUIRED TO ENSURE A QUALITY OF PROFESSIONAL SERVICE.

106. THAT THE PRESENT DESIRE OF SOCIAL WORKERS FOR THEIR OWN EFFECTIVE PROFESSIONAL ASSOCIATION, DEFINING LICENSING STANDARDS BE SUPPORTED.

107. THE RIGHT TO APPEAL AND TO WHOM, MUST BE NOTIFIED TO THE PARTIES AT THE TIME OF A MAJOR DECISION. A STATEMENT OF THE PLACEMENT OF THE CHILD IN THE INTERIM, PENDING APPEAL MUST ALSO BE MADE, WITH REASONS.

108. AN APPEAL FROM THE COURT CAN BE MADE TO A HIGHER COURT.

109. AN APPEAL AGAINST AN ADMINISTRATIVE DECISION OF THE DEPARTMENT OF SOCIAL SERVICES OR ITS AGENTS CAN BE MADE TO AN APPEAL PANEL OF SOCIAL SERVICES AND THIS APPEAL SHALL BE FINAL.

110. AN APPEAL PANEL BE ESTABLISHED UNDER THE ACT TO HEAR APPEALS FROM PARENTS, GUARDIANS OR CHILDREN OR PARTIES ACTING ON BEHALF OF ANY OF THESE. THE APPEAL PANEL MUST CONTAIN A REPRESENTATIVE OF THE DEPARTMENT, A REPRESENTATIVE OF THE FAMILY'S COMMUNITY, A PERSON KNOWLEDGEABLE IN CHILD DEVELOPMENT, A PERSON KNOWLEDGEABLE IN FAMILY LAW AND A MEMBER OF THE GENERAL PUBLIC. AT LEAST TWO OF THESE PANELISTS MUST BE WOMEN.

111. THAT THE PROVINCIAL GOVERNMENT MOVE TOWARDS NATIVE RESPONSIBILITY FOR NATIVE CHILDREN ON AND OFF RESERVES. HOWEVER, BECAUSE OF THE REQUIREMENT FOR SKILLS AND EXPERTISE IN THE AREA THE DEPARMTENT MUST CONTINUE TO BE INVOLVED UNTIL SATISFIED WITH THE QUALITY OF SERVICE THAT CAN BE DELIVERED.

112. IN DELIVERING SERVICES TO FAMILIES, THAT LOVE, CULTURE AND CONCERN BE RATED MUCH HIGHER THAN MATERIAL COMFORT IN ASSESSING THE ABILITY OF A HOME TO PROVIDE CARE.

113. THAT SAFE LOVING CARE OF NATIVE CHILDREN IS IMPORTANT IN AND OF ITSELF. CHILDREN CANNOT BE PAWNS IN THE POLITICAL PROCESS.

114. COUNCIL RECOMMENDS A CONTINUATION OF A JUSTICE SYSTEM WHICH INCLUDES MEANINGFUL INVOLVEMENT BY INDIANS BUT THAT IN THE MEANTIME, ELDERS COULD BE CALLED INTO THE COURT PROCESS OR MEDIATION PROCESS BY INVITATION OF THE PARENTS OR THE BAND.

115. FUNDING FOR INDIAN PROGRAMS IS COMPLEX. THE FEDERAL GOVERNMENT HAS THE RESPONSIBILITY FOR THE OVERALL CARE OF INDIANS AND SO COULD PAY MONEY TO THE PROVINCE WHO IN TURN COULD MONITOR ITS USE BY THE NATIVE POPULATION.

116. THAT IF THE NATIVE COMMUNITIES CAN, WITH FINANCIAL AND PERSONNEL ASSISTANCE FROM THE DEPARTMENT OF SOCIAL SERVICES, FIND A SUFFICIENT NUMBER OF QUALIFIED NATIVE ADOPTIVE HOMES WITHIN THE PROVINCE, THAT THERE BE NO INTERRACIAL ADOPTION IN SASKATCHEWAN.

117. A PERMANENT STOP ON NATIVE ADOPTION OUTSIDE SASKATCHEWAN EXCEPT TO FAMILY MEMBERS BY CUSTOM BE CONTINUED.

118. THAT SUPPORTED ADOPTION BE CONSIDERED AS AN ALTERNATIVE TO REGULAR ADOPTION FOR NATIVE AS WELL AS HANDICAPPED CHILDREN.

119. INCREASE COOPERATION WITH THE NATIVE COMMUNITIES ACROSS SASKATCHEWAN ON THE BASIS THAT BOTH THE DEPARTMENT OF SOCIAL SERVICES AND THE NATIVE COMMUNITIES HAVE THE INTERESTS OF THE CHILDREN AT HEART. THIS IS NOT PRIMARILY A FINANCIAL PROPOSITION. CLEARLY THERE ARE WAYS THAT IMPROVEMENTS CAN OCCUR AND HAVE BEEN OCCURRING OVER THE PAST FEW YEARS.

120. THAT THE RELATIVE PERCENTAGES SPENT CURRENTLY ON PREVENTION AND ON VARIOUS APPREHENSION SERVICES ULTIMATELY BE REVERSED. THE CHANGE SHOULD BE EFFECTED GRADUALLY BUT WITHIN A SPECIFIED 5-10 YEAR TIME FRAME.

121. THAT IN SUPPORTIVE SERVICES, MOST OF THE MONEY BE SPENT ON THE COMMUNITY SO THAT THE COMMUNITY HAS A SAY IN FINANCIAL SPENDING. OTHER COMMUNITY AND PARENTAL FUNDING CAN BE USED IN ANY PROGRAM IMPLEMENTED FOR AND ON BEHALF OF THE CHILD.

122. AN INTERNAL STUDY IN THE DEPARTMENT OF SOCIAL SERVICES IS NEEDED TO DETERMINE HOW THE PAYMENTS TO FOSTER PARENTS MAY ADEQUATELY REFLECT THE REAL AMOUNTS SPENT ON THE CARE OF FOSTER CHILDREN.

123. FOSTER HOME RATES MUST BE INCREASED TO COVER ACTUAL EXPENSES.

124. FOSTER PARENTS MUST BE PROPERLY INSURED FOR DAMAGE DONE BY FOSTER CHILDREN TO THE FOSTER PARENTS' PROPERTY AND THE PROPERTY OF OTHERS. WE SUGGEST THE GOVERNMENT UNDERWRITE THESE POLICIES.

125. FOSTER HOMES ARE ENTITLED TO SPEAK FOR AND GIVE CONSENT FOR MOST ORDINARY MEDICAL, EDUCATIONAL AND SOCIAL MATTERS. THE RESPONSIBILITY FOR THESE MAY BE SHARED BUT THE FOSTER HOME SHOULD HAVE PRIORITY OVER THE MINISTER OR NATURAL FAMILY UNLESS SPECIFICALLY PREVENTED BY COURT ORDER.

126. THAT UNIVERSAL STANDARDS BE DEVELOPED TO APPLY TO ALL PLACES OTHER THAN THEIR OWN HOMES, IN WHICH CHILDREN ARE CARED FOR.

127. THAT UNIVERSAL STANDARDS BE APPLIED AND MONITORED BY EACH GOVERNMENT DEVELOPMENT IN RELATION TO THE PROGRAMS OFFERED IN THE FACILITY OR PROGRAM.

128. THAT FAILURE TO MEET THESE STANDARDS MAY BE DEALT WITH BY WITHDRAWAL OF THE RIGHT OF THE FACILITY OR PROGRAM TO ACCEPT CHILDREN.

129. THAT SINCE WE ARE PROPOSING A SHIFT TO EARLY INTERVENTION AND SUPPORTIVE SERVICES, SOCIAL WORKERS AND OTHERS IN THE DEPARTMENT WILL NEED IMMEDIATE AND INTENSIVE RE-EDUCATION TO PREPARE THEM FOR THE ALTERED EMPHASIS.

130. THAT REGULATIONS AND POLICIES UNDER THE ACT MUST SPELL OUT THE OBJECTIVES, PHYSICAL AND PSYCHOLOGICAL STANDARDS REQUIRED OF ANY FACILITY OR PROGRAM USED BY THE DEPARTMENT IN PLANNING.

131. THAT FAILURE OF A PROGRAM TO MEET ALL THE STANDARDS SHALL NOT BE A SOLE REASON FOR REJECTING THAT PROGRAM. IF, FOR EXAMPLE, THE PSYCHOLOGICAL STANDARDS MEET OR EXCEED REQUIREMENTS, BUT THE PHYSICAL ONES DO NOT, A PROGRAM COULD BE ACCEPTED ON THE UNDERSTANDING THAT IT IMPROVE ITS STANDARDS.

132. THAT SOME FORM OF REWARD OR ACCREDITATION SHOULD ACCRUE TO A FACILITY OR PROGRAM PROVIDING QUALITY SERVICES.

133. THAT PREFERENCE IN PLACEMENT FOR PROGRAMMING OR PROTECTIVE CARE BE GIVEN TO THOSE FACILITIES MEETING ACCREDITATION STANDARDS.

134. THAT THE IDEAL FORM OF ACCREDITATION IS BY PEER EVALUATION AND WITH REPRESENTATION FROM THE DEPARTMENT.

135. COUNCIL COMMENDS THE FOSTER PARENTS ASSOCIATION FOR DEVELOPING ACCREDITATION STANDARDS AND RECOMMENDS THE DEVELOPMENT OF A FOSTER HOME SELECTION AND REVIEW COMMITTEE FROM THE FOSTER PARENTS ASSOCIATION TO MONITOR FOSTER CARE.

136. FOSTER PARENTS SHOULD BE SELECTED ON SPECIFIC CRITERIA, BE EXPECTED TO ADHERE TO SPECIFIC STANDARDS AND BE ACCOUNTABLE FOR THEIR CARE OF CHILDREN. AS MENTIONED ABOVE, THEY MUST BE MONITORED EFFECTIVELY FOR ADHERENCE TO STANDARDS.

137. COUNCIL COMMENDS RANCH EHRLO FOR DEVELOPING A PROGRAM OF ACCREDITATION IN ASSOCIATION WITH THE CHILD WELFARE LEAGUE OF AMERICA AND RECOMMENDS THAT DEPARTMENT OPERATED AND PRIVATE INSTITUTTIONS USED BY THE DEPARTMENT IMPLEMENT AS A MATTER OF URGENCY THE SAME OR AN ESSENTIALLY SIMILAR PROGRAM.

138. COUNCIL RECOMMENDS THAT A CHILD WHO KNOWS AND UNDERSTANDS THE QUESTION ASKED SHOULD BE ABLE TO COMMENT ON THE CARE RECEIVED AND BE HEARD IN ALL MATTERS CONCERNING HIM OR HER. THE CHILD SHOULD GENERALLY BE PART OF THE EVALUATION PROCESS.

139. ASIDE FROM THE REGULAR APPEAL PROCESS, COUNCIL RECOMMENDS THAT ALL PLACES HAVING CARE OF A CHILD PLACED BY THE MINISTER OR THE COURTS SHALL BE REVIEWED ANNUALLY. THE FAMILY GUARDIAN, SOCIAL WORKER AND CHILD SHOULD BE PRESENT FOR PARTS OF THIS REVIEW AND THE FAMILY GUARDIAN MUST BE SATISFIED THAT THE PLAN IS BEING EFFECTIVELY IMPLEMENTED.

140. THE FAMILY GUARDIAN SHALL CONDUCT A REVIEW AT ANY TIME IF REQUESTED BY THE CHILD.

141. THAT FAMILY GUARDIAN SHALL CONDUCT A REVIEW IF REQUESTED BY THE FAMILY OR THE PROGRAM OPERATOR.

142. SOCIAL WORKERS MUST SPEND TIME ALONE WITH EVERY CHILD THEY HAVE IN PROTECTIVE CARE AND KNOW AND UNDERSTAND THE CHILD'S WISHES AND CONCERNS.

143. THE DEPARTMENT SHOULD CONDUCT PILOT STUDIES WITH A NEW CONCEPT OF A "COMMUNITY VISTOR(S)". THE VISITOR(S) WOULD BE ALLOCATED FROM THE LOCAL COMMUNITY TO THE CHILD AND WOULD HAVE THE RIGHT TO "DROP IN" ON THE HOME, INSTITUTION OR PLACEMENT AT ANY TIME WITHOUT NOTICE TO ASSURE THE SOCIAL WORKER, THE FAMILY GUARDIAN AND THE FAMILY ITSELF THAT THE CHILD IS RECEIVING APPROPRIATE CARE.

144. WE WOULD RECOMMEND THAT THE DEPARTMENT ACTIVELY ASSIST TO FIND PARENTS BY ACTING AS INTERMEDIARY FOR SEARCHING ADOPTEES.

145. WE WOULD RECOMMEND THAT THE DEPARTMENT ACTIVELY ASSIST TO FIND ADOPTED CHILDREN BY ACTING AS INTERMEDIARY FOR NATURAL PARENTS OR SIBLINGS.

146. COUNCIL RECOMMENDS A POLICY OF GIVING THE LAST KNOWN NAME AND ADDRESS OF NATURAL PARENTS WHO AGREE TO 21 YEAR OLDS OR OLDER WHO REQUEST THEM.

147. WE RECOMMEND THAT GENETIC INFORMATION ON THE FAMILIES OF BOTH FATHER AND MOTHER BE CAREFULLY RECORDED AT THE TIME OF ADOPTION AND THIS BE MADE AVAILABLE ON REQUEST TO THE CHILD AND THE ADOPTIVE PARENTS, PREFERABLY DURING THE EARLY TEEN YEARS.

148. WE RECOMMEND THAT NATURAL PARENTS OR SIBLINGS BE ABLE TO ENTER INFORMATION WITH THE DEPARTMENT ABOUT THEMSELVES AT ANY TIME.

149. THAT INALL SECTIONS OF THE ACT PERTAINING TO ADOPTION, THE WORDS "ILLEGITIMATE" OR "LEGITIMIZE" BE REMOVED AND THAT PREFERENCE INSTEAD BE MADE TO THE PARENT'S MARITAL STATUS. WE AGREE THAT AN ORDER SHOULD NOT INDICATE THIS TYPE OF INFORMATION. IT IS FOR THE NATURAL PARENTS TO DISCUSS THEIR MARRIAGE IF AND WHEN A RECONCILIATION IS ARRANGED.

150. THE ACKNOWLEDGED NATURAL FATHER SHALL HAVE THE SAME RIGHTS IN THE MATTER OF CONCURRENCE WITH AN ADOPTION ORDER AS THE MOTHER, ASSUMING HE HAS AN "INTEREST" IN THE CHILD. THIS SHALL NOT BE A REASON FOR UNREASONABLE DELAY IN THE PROCEDURE OF ADOPTION SUCH THAT THE CHILD SUFFERS FROM UNCERTAINTY OF CARE.

151. COUNCIL CONCURS WITH THE PRINCIPLE OF NOT HAVING BABIES FOR SALE IN ANY FORM.

152. COUNCIL AGREES THAT PRIVATE ADOPTIONS AS ARRANGED BY NATIVE COMMUNITIES FROM TIME IMMEMORIAL SHALL CONTINUE TO RECEIVE THE FORCE OF LAW AND BE CONFIRMED ON REQUEST OF THE ADOPTING FAMILY AND OR ADOPTED CHILD.

## Special Recommendations

AAA COUNCIL RECOMMENDS THE ESTABLISHMENT OF AN INTERDEPARTMENTAL ADMINISTRATIVE STRUCTURE TO DEAL WITH CHILDREN AND FAMILIES REQUIRING SERVICES MANDATED THROUGH TWO OR MORE DEPARTMENTS OF GOVERNMENT.

XXX COUNCIL RECOMMENDS THAT A SMALL SPECIAL TASK GROUP BE ESTABLISHED FROM SOCIAL SERVICES, ACADEMIC SOCIAL WORK, THE NATIVE GROUPS AND OTHER INTERESTED PERSON TO COORDINATE THE DEVELOPMENT OF NATIVE PREVENTIVE, SUPPORTIVE, EARLY INTERVENTION AND PROTECTIVE SERVICES WITHIN AND ON BEHALF OF THE NATIVE COMMUNITIES. THIS TASK GROUP WOULD BE ONGOING AND SUPPLIED WITH ALL NECESSARY LOGISTIC ASSSITANCE UNDER SECTION 5(2) OF THE CURRENT FAMILY SERVICES ACT OR ITS EQUIVALENT UNDER NEW LEGISLATION.

YYY COUNCIL RECOMMENDS A JUDICIAL INQUIRY INTO ALL CASES OF CHILD ABUSE AND/OR DEATH IN FOSTER HOMES OR WHILE THE CHILD WAS EITHER NOMINALLY OR ACTUALLY IN THE CARE OF AN INSTITUTION FOR PROTECTION. THIS INQUIRY SHOULD SPAN THE PAST FIVE YEARS AND SHOULD DEVELOP RECOMMENDATIONS ON METHODS TO ELIMINATE OR SUBSTANTIALLY REDUCE THE DAMAGE.

ZZZ COUNCIL RECOMMENDS REVIEW OF THE "REACH" PROGRAM - EXAMINING CRITERIA FOR ADOPTING PARENTS, SERVICES FOR ADOPTING AND NATURAL PARENTS DURING THE ADOPTION AND/OR SUBSEQUENT CRISES AND WITH SOME CONSIDERATION TO WHETHER NATURAL PARENTS SHOULD STAY INVOLVED WITH THESE CHILDREN. THE OBJECT WOULD BE TO DEVELOP THE BEST ENVIRONMENT FOR THESE CHILDREN.

# MINISTER'S ADVISORY COUNCIL ON CHILD PROTECTION

## APPENDICES

## SCHEDULE OF MEETINGS/HEARINGS

MEETING

September 30, 1983 - Regina

October 6, 1983 - Saskatoon

October 12, 1983 - Saskatoon

October 18, 1983 - Saskatoon

October 25, 1983 - Prince Albert

November 9, 1983 - Regina

November 14, 1983 - Regina

November 21 - 23, 1983 - Regina

December 12 and 13, 1983 - Saskatoon

January 5, 1983 - Saskatoon

HEARINGS

October 24 - 26, 1983 - Prince Albert

October 31 - November 3, 1983 - Saskatoon

November 7 - 10, 1983 - Regina

November 16, 1983 - LaRonge

December 7, 1983 - Laloche

# MINISTER'S ADVISORY COUNCIL ON CHILD PROTECTION HEARINGS

## BRIEFS

1. The Carrolls - No hearing (Written)
2. Sherstobitoff, Stromber & Young, Saskatoon (Written)
3. Holizki, Blacklock-Linn, Saskatoon (Written)
4. Les Senner, Prince Albert (Public)
5. Children Have No Rights (Public)
6. Vicki LaRose, Prince Albert (Public)
7. Delay in Court (Public) (Receveur)
8. Valerie Knutsen, Prince Albert (Public)
9. Foster Parent Basic Maintenance (Public) (Williams)
10. We receive a Small Amount (Public) (Carmichael)
11. Peter Griffiths (Public)
12. Winona Senner (Public)
13. Dave Sonmor (Public)
14. Family Services Native Co-ordinating Council, Prince Albert (Public) (Neuman)
15. Saskatchewan Legal Aid, Prince Albert (Public) (Starer)
16. Rick Lindsay (Public)
17. Saskatoon Society for Protection of Children, Inc. (Public)
18. Ron and Roseanne Kydd, Saskatoon (Public)
19. Family Services Act and Fostering (Public) (Grandberg)
20. Anonymous
21. Helen Labach (Public)

22. Martin Cross (Public)

23. Robert McCann, LaRonge (Public)

24. Erna Neufeldt (Public)

25. Edward Holgate (Public)

26. Gay Caswell (Public)

27. Pupil Services Department, Saskatoon Board of Trade (Public)

28. Saskatchewan Association Mentally Retarded (Public) (McClemments)

29. Anonymous

30. Anonymous

31. Anonymous

32. Claudia Agecoutay (Public)

33. Glen How (Public)

34. James Klein (Public)

35. Mr. and Mrs. Moryski (Public)

36. Anonymous

37. Regina Foster Parents Association (Public)

38. Saskatchewan Native Women's Association (Public)

39. Peyakowak (Public)

40. Saskatchewan Co-ordinating Council on Social Planning (Public)

41. KaPaChee (Public)

42. Regina Committee on Sexual Abuse (Public)

43. Grace Mennonite Church (Public)

44. Native Ministries (Public)

45. School of Social Work (Public)

46. School of Human Justice (Public)

47. John Wintersgill (Public)

48. Federation of Saskatchewan Indians Nations (Public)

49. Saskatchewan Foster Parents Association (Public)

50. Child Abuse Prevention Committee (Public)

51. Joe and Louise McKeown (Public)

52. Saskatchewan Teachers' Federation (Public)

53. Anonymous

54. Anonymous

55. Dorothy Anning - No Hearing (Written)

56. David Cook - No Hearing (Written)

57. Mary Cross - No Hearing (Written)

58. SCEP (Public)

59. Anonymous

60. Youth Unlimited - No Hearing (Written)

61. Martin Woldridge (Public)

62. Saskatchewan Medical Association - No Hearing (Written)

63. Patrick Johnson - No Hearing (Written)

64. Robert G. Gleim - No Hearing (Written)

65. G. A. Madill - No Hearing (Written)

66. W. A. Zaleski - Alvin Buckwold Centre - No Hearing (Written)

67. Cowessess Indian Band (Written)

68. Saskatchewan Association of Social Workers (Written) Dreidger & Biram

69. Laura Grant - No Hearing (Written)

70. JVS - No Hearing

71. Child Abuse Council (Public)

72. S.P. - No Hearing (Written)

73. Saskatchewan Association of Human Rights - No Hearing (Written)

74. Anonymous

75. Regina Police Service (Public)

76. Saskatoon City Police (Written)

77. Neginuk Friendship Centre (Public)

78. Phyllis Durocher (Public)

79. Reasons for Native Child Apprenension (Public)

80. Saskatchewan Institute on Prevention of Handicaps (Written)

81. Blain Ratslaff (Written)

82. LaRonge Social Services (Public)

83. Max Morin (Written)

84. Student Group - School of Social Work - No Hearing (Written)

85. O. Ensio Ingman - No Hearing (Written)

86. Brian Hansen - No Hearing (Written)

87. Jim Sinclair - AMNSIS - No Hearing (Written)

88. Sidney Robinson - No Hearing (Written)

89. Mrs. Jeanne Sluth - No Hearing (Written)

90. Catholic Family Services - No Hearing (Written)

91. Sandra Minke - No Hearing (Written)

92. SPNA - No Hearing (Written)

93. Blanche Wolfe

94. Gwen Stewart - No Hearing (Written)

95. G.F. Kasian, M.C. - No Hearing (Written)

96. W.J. Neill, RCMP - No Hearing (Written)

97. Psychological Society of Saskatchewan - No Hearing (Written)

98. Faculty of Social Work - No hearing (Written)

99. Mavis Olsen PH.D. - No Hearing

## LIST OF COUNCIL MEMBERS

| | |
|---|---|
| Dr. Peter Matthews | Chairman |
| Mr. Jim Williams | V. Chairman (Prince Albert) |
| Mr. Chris Sarich | V. Chairman (Saskatoon) |
| Major Ron Bowles | V. Chairman (Regina) |

Ms. Ruth Pradyznski

Judge Lloyd Deshaye

Ms. Jane Krafchuk

Ms. Marilyn Olson

Mr. Henry Kloppenburg

Ms. Myrna Yuzicappi

Mr. Charles Fox

Mr. Ron Klein

Mr. Otto Driedger

Ms. Ivy Scales

Ms. Mary Kaye

Mr. Roger Ratt

Minister's Advisory Council

on

Child Protection

SUPPLEMENTARY COMMENTS by
MR. JIM WILLIAMS

I have read the Minister's Advisory Council's final report and

[ ] 1. concur with the content

[x] 2. do not concur with the content (please explain below)

COMMENTS:

I have now taken the opportunity to study carefully the report and information provided us in the public hearings and by the Department of Social Services staff.

As I had input into the completed package, for the most part I am in agreement with it. My major concern is that when the recommendations are separated from the body of the report, the recommendations are ambiguous and in some cases could be construed to say more than intended by the report.

I am concerned that, as time progresses, the recommendations will receive a wider circulation than the report itself, thereby fostering misunderstandings of the council's intent.

To this general conclusion, I would like to add comments on three of the Recommendations:

#61 "CHILD IN NEED OF PROTECTION"
#72 "PENALTY FOR FALSE OR MALICIOUS REPORTING"
#91 "FAMILY SERVICE ACT TAKES PRECEDENCE OVER ALL OTHER ACTS."

Lou B. Williams

(signature)

Throughout the public hearings, there was a growing acceptance of the Council, and a recognition of its integrity. This was particularly apparent with a native group who at first refused to participate and after attending all of the sessions, finally made a presentation in Regina.

Throughout these hearings there were individuals who showed considerable courage and personal sacrifice to lay their personal experiences before the council. This council member believes that this courage and trust deserves some special and specific mention in the council's report to the government. These presentations often were requests for help, or vivid descriptions of an experience of an individual or family unit who felt powerless with the functioning of a large, well orchestrated system of the government.

The presentations made by the native population best exemplify those who feel that they are strongly discriminated against by the present system. A review of presented materials shows that their plight differs very little from other segments of the population who share similar involvement with the department, particularly those of a similar socio-economic level.

The council in its deliberations was repeatedly reminded that the conditions surrounding the native population are those that

are common to a syndrome of poverty, with its accompanying feelings of separation, alienation, and powerlessness to function in what is conceived as an atmosphere of discrimination.

The injection of money alone cannot and will not correct a poverty syndrome, but often drives the wedges deeper.

One of the major problems facing persons experiencing poverty is that the money coming into their hands is quickly funelled from their community back to the more affluent sections of the population. This rapid return of funds tends to increase the feeling of helplessness of the recipient population and creates a feeling of uselessness among the contributing portion of the population.

Probably the best example of this rapid return of funds from the recipient to the contributing population is the percentage of welfare funds returned immediately to the province through the sale of alcohol. A government report in 1977 suggested that 36% of all Social Service funds were expended on alcohol.

Few expenditures of these funds could so permanently disadvantage the recipients and make such an excellent defense for the reducing of such funds from the general public.

The personal conflict of persons barred from the abundant productivity of this land, partially by their choices and partially by situations over which they have no control, must be a major concern of a government. But the concern must be deeper when from this same population come the majority of the children placed into the care of the Minister of Social Services. This council member's reason for

raising this issue is to draw to the attention of this government that the group who represent the majority of the children in care is seriously negotiating with the federal level of the government to find alternate methods of supervision and administration of child protection. It would seem more practical to correct apparent abuses in the present system than to establish a totally separate system for a different population in the province.

There are several phenomena that suggest that the present system is not functioning as intended. The system currently brings children into care for their protection, separating them from their natural families, environment, and culture, supplying them with the best possible resources, homes, and advantages, only to witness an alarming return to their first condition at the first opportunity presented. Many children, as soon as they are able to make a decision regarding their own destiny, register their choice by running, by waiting until they are legally of age and then returning to their natural environment. The difference between those "rescued" or "advantaged" and those left in their natural homes, whatever the inadequacies, seems minimal. Those removed from their families to later be returned experience a serious loss of cultural and family norms. Many remain in an anomic condition--high rates of suicide, incarceration, drug abuse, family disruption, and low economic productivity.

This report is not to suggest that Social Services, its employees, its foster parents, or its institutions are not trying to carry out the mandate to protect the children coming into its care. But it does suggest that band-aid treatment of the present system will not stem the growing tide of distrust of the public in that system, nor will such an approach alleviate the realization that a minority segment of our population is crying out against the unrealistic pressures brought upon them by the current system.

This situation deserves a great deal of careful and scholarly study that will look at the long term solutions for a desperate problem.

There was evidence in the reports received from natural parents, Indian and White, from adults who had been children raised in this type of system, from foster parents raising the children, that one of the major frustrations is that if you ever become involved with the Department, you lose the power to direct your own life, and the more involvement, the more powerlessness.

Much of the majority report addresses the curbing of this power and an attempt to alleviate the abuses. But this council member feels that these concerns were not expressed forcefully enough to the Minister of Social Services to justify the urgency of some of the reports presented.

# 61 CHILD IN NEED OF PROTECTION

This council member questions as adequate the recommended definition of child abuse. It would seem that in a careful reading of this that the active abuse is the failure of the parents or guardians to protect, or an overt act perpetrated by the parents or guardians upon a minor. It does not include as child abuse similar acts by other responsible adults, and completely ignores the issue of parental or authoritative discipline.

Without some guidance within the law, children's lives can be seriously and permanently damaged by interpretations of what constitutes physical, emotional or sexual assault, and makes no attempt to recognize that the disruption of a family for several months or years is much more srious abuse than minimal neglect, or unreasonable disciplinary actions. By the time such a case reaches the judge, irreparable emotional damage caused by family break up, separation from parents, and placement in a foreign culture has far greater implications on the child's adult life than the situation originally alledged as an abuse situation.

Suggested revision:

THAT A "CHILD IN NEED OF PROTECTIVE CARE" BE DEFINED AS:

A. AN ABANDONED, LOST OR ORPHANED CHILD WHO HAS NO OTHER PERSON WILLING TO ACT AS GUARDIAN.

B. A CHILD WHO HAS SUFFERED CHILD ABUSE AND NEGLECT. FOR THE PURPOSES OF THIS ACT, THE TERM "CHILD ABUSE" AND "NEGLECT" MEANS THE PHYSICAL OR MENTAL INJURY, SEXUAL ABUSE OR EXPLOITATION, NEGLIGENT TREATMENT, OR MALTREATMENT OF A CHILD UNDER THE AGE OF FIGHTEEN BY A PERSON WHO IS RESPONSIBLE FOR THE CHILD'S WELFARE UNDER CIRCUMSTANCES WHICH INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR THREATENED, BUT SUCH TERM DOES NOT INCLUDE DISCIPLINE OR CORPORAL PUNISHMENT METHODS APPLIED BY A PARENT OR INDIVIDUAL EXPLICITLY AUTHORIZED BY A PARENT TO PERFORM SUCH FUNCTION.

C. A CHILD AT SERIOUS RISK FOR IMMINENT DANGER FROM WHICH THE PERSON WHO IS RESPONSIBLE FOR THE CHILD'S WELFARE WILL NOT OR CANNOT PROTECT HIM.

D. A CHILD OR YOUNG PERSON DEMONSTRATING A SERIOUS RISK TO HIS OWN PERSON WHERE THE PERSON RESPONSIBLE FOR THE CHILD'S WELFARE IS EITHER UNABLE OR UNWILLING TO PROVIDE A SAFE HOME.

#72 PENALTY FOR FALSE AND MALICIOUS REPORTING

The intent of the original discussion by the council was that a false or a malicious report potentially is harmful to the family and the child in question, and upon adding the fine in #71, it was felt that it was necessary to put a balancing fine for false or malicious reporting. The statement leaving the discretion to the social worker totally nullifies the intention of Recommendation #72

Suggested revision:

A PENALTY BE ESTABLISHED FOR MALICIOUS AND FALSE REPORTING AS DEFINED IN SECTION 16 OF THE CURRENT ACT IN THE AMOUNT OF UP TO $1,000. (IN THE EVENT THAT A REPORT IS FOUND TO BE FALSE OR MALICIOUS, THE NAME OF THE REPORTER SHALL BE RELEASED TO THE POLICE FOR FURTHER LEGAL ACTION.

# 91 THAT THE FAMILY SERVICES ACT TAKES PRECEDENCE OVER ALL OTHER ACTS IN THE DETERMINATION OF A CHILD'S FUTURE.

This council member recalls that the council was discussing one other specific act, namely the Infant's Act. It was felt that applications brought under the Infant's Act unduly delayed settling cases under the Family Services Act, as the two were heard by different judges. It was not the intention that the Family Service Act in any way deter the police from prosecuting murders, sexual assaults, or any other ciminal act involving a child.

Suggested revision:

THAT THE FAMILY SERVICE ACT TAKE PRECEDENCE OVER THE INFANT'S ACT, AND WHERE POSSIBLE, THE TWO APPLICATIONS BE MERGED TOGETHER.

POOR

QUALITY

ORIGINAL